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Letter dated 9 October 2015 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council

On behalf of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, and in accordance with paragraph 47 of Security Council resolution 2182 (2014), I have the honour to transmit herewith the report on Somalia of the Monitoring Group on Somalia and Eritrea.

In this connection, the Committee would appreciate it if the present letter, together with the enclosed report, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Rafael Darío Ramírez **Carreño**
Chair
Security Council Committee pursuant
to resolutions 751 (1992) and 1907 (2009)
concerning Somalia and Eritrea

Please recycle

Letter dated 22 September 2015 from the members of the Monitoring Group on Somalia and Eritrea addressed to the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea

We have the honour to transmit herewith the report focusing on Somalia of the Monitoring Group on Somalia and Eritrea in accordance with paragraph 47 of Security Council resolution 2182 (2014).

(*Signed*) Christophe **Trajber**
Coordinator
Monitoring Group on Somalia and Eritrea

(*Signed*) Nicholas **Argeros**
Finance expert

(*Signed*) Zeina **Awad**
Transport expert

(*Signed*) Jay **Bahadur**
Armed groups expert

(*Signed*) Bogdan **Chetreanu**
Finance expert

(*Signed*) Déirdre **Clancy**
Humanitarian expert

(*Signed*) James **Smith**
Regional expert

Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2182 (2014): Somalia

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Summary

Much has changed since President Hassan Sheikh Mohamud was elected President of the Federal Government of Somalia late in 2012. Support from the African Union Mission in Somalia (AMISOM) enabled significant territorial gains to be made against Harakaat al-Shabaab al-Mujaahidiin (Al-Shabaab). Three new interim regional administrations have been established, leaving a new federal map of Somalia almost complete. As new lines are drawn on the map, however, new opportunities for clan, business and political networks to capture State resources have emerged. The rush for these resources by spoiler networks is preventing the development of an inclusive political arrangement, and threatens to undermine the military gains made against Al-Shabaab. Capitalizing on these gains requires Somalia's political elite to prioritize the long-term goals of State-building over the short-term capture of State resources. The failure to do so, as Somalia enters the next phase of transition in 2016, presents a significant threat to the long-term peace, security and stability of Somalia. A resurgent Al-Shabaab appears increasingly able to exploit the failures of its opponents to consolidate control, establish local administrations, provide security and build public trust.

Control over and access to Somalia's land and water resources were contested long before the collapse of the State in 1991. Al-Shabaab's administrative rule over much of southern and central Somalia, though ruthless, subdued many deeply rooted intercommunal conflicts over land and water resources. Al-Shabaab's loss of territory in the face of military defeats, and the absence of viable alternative civilian administrations in its place, have resulted in the re-emergence of intercommunal conflicts in parts of southern and central Somalia. Al-Shabaab has leveraged this conflict to its advantage. The prevalence of potentially deepening intercommunal conflicts over land, water and other natural resources in the relatively more stable regions of Somaliland and Puntland underlines the need for comprehensive approaches to local-level resource-sharing agreements.

The 2012 Provisional Constitution and ongoing federalization process have highlighted the urgent need for national resource-sharing agreements. The pursuit of Somalia's mineral and maritime wealth by private companies presents a significant threat in a fragile environment. Managed effectively by responsible and effective institutions, the nation's resource wealth should contribute to the strengthening of Somalia's economy and to its prosperity. The Monitoring Group's investigation into Soma Oil & Gas Holdings Ltd., which revealed that Somali Government officials accepted payments from the company under the guise of a "capacity-building" programme, has demonstrated that such institutions do not yet exist. The successful implementation of genuine capacity-building programmes should be a prerequisite for the development of the extractives sector in Somalia.

The rapid decline in piracy off the coast of Somalia since 2012 has been the result of external efforts and measures. The reported involvement of known pirate leaders in the recent capture of two Iranian fishing dhows serves as a reminder, however, that the conditions on land that allowed the rise of piracy largely remain. While the threat posed by piracy to merchant vessels remains low, the Monitoring Group is concerned that illegal, unreported and unregulated fishing by foreign vessels may re-establish the conflict dynamic with local fishing communities that contributed to the rise of piracy a decade ago. The decline in piracy was followed by a commensurate rise in external private interests seeking to exploit the fisheries

sector and provide maritime security services. As domestic and international awareness of Somalia's maritime resources has grown, the lack of regulation and oversight in the sector creates a new source of "rent" for federal and regional officials — particularly through the sale of fishing licences — thereby fuelling corruption.

More broadly, corruption continues to undermine efforts to rebuild effective institutions throughout Somalia. The fact that the outcome of important debates by the highest decision-making body of the Federal Government of Somalia — the House of the People — may be influenced through cash payments to its members demonstrates the extent to which corruption impedes the fragile process of State-building. Commendable efforts have been made over the course of the mandate to strengthen financial regulation and implement new instruments. While the Monitoring Group is optimistic that this trend will continue, effectively addressing the extent of misappropriation in Somalia requires systematic reform extending beyond Somalia's financial institutions. The lack of effective civilian oversight over the budget of the Somali National Army has enabled opportunities for systemic misappropriation, including of soldiers' wages. The obvious security ramifications of such misappropriation highlight the need for a comprehensive approach to implementing reform. President Hassan Sheikh Mohamud's announcement on 9 September 2015 of sweeping financial reforms within the security sector is a welcome first step in this process.

The ability of the security forces to defend the Somali people from Al-Shabaab has been tested during this mandate. The successful elimination of several prominent leaders appears to have done little to dent Al-Shabaab's commitment and capacity to destabilize the region. Al-Shabaab's shift of tactics, including the return to conventional attacks on military targets — both AMISOM and the Somali National Army — is cause for deep concern, particularly given the cuts to the AMISOM budget and ongoing challenges of Somali National Army troop payments. Al-Shabaab maintains an ability to adapt to changing circumstances and exploit weaknesses in the security and governance architecture. In the face of allied advances against the towns and villages it holds, the group can withdraw, blockade essential supplies from reaching the "liberated" populations, and simply wait until the security presence is sufficiently weakened or demoralized before striking again. As military advances continue, AMISOM, the Somali National Army and allied forces are stretched thin, leaving their bases increasingly vulnerable to attack. The longer-term impact of the major attacks on AMISOM troops, such as those in Leego (26 June 2015) and Janale (1 September 2015), may not yet be fully appreciated.

Rather than weakening Al-Shabaab, the territorial displacement of the group from major urban centres in Somalia has prompted its further spread into the broader Horn of Africa region. North-eastern Kenya has witnessed an alarming surge in attacks over the course of the mandate. Al-Shabaab continues to be able to employ relatively simple tactics with devastating impact, as demonstrated in its attack on Garissa University in April 2015. There is growing need for a regionally coordinated approach to the threat posed by Al-Shabaab and other fundamentalist militant outfits throughout the Horn of Africa.

The partial lifting of the arms embargo introduced through Security Council resolution 2093 (2013) was prompted, inter alia, by the need to strengthen the capacity of Somali domestic forces to confront the military threat posed by Al-Shabaab. The Monitoring Group continues to receive reports that such forces remain ill-equipped to do so. While the Group can now more effectively monitor the volume of military material entering Somalia legitimately, it remains unable to accurately assess whether such military material is being distributed appropriately or, indeed, how much is still required. In particular, the standard of reporting on the composition, strength and structure of Federal Government security forces continues to fall far short of the Council's requirements. With the emergence of new regional administrations, and an increasing number of both national and foreign security forces present in Somalia, it is increasingly important to identify which security forces are eligible to import military material under the Security Council's arms embargo, and which reporting obligations they consequently incur.

That all of the security forces present in Somalia are believed to have targeted civilians — whether as a deliberate tactic of war, in service of political or economic aims or through disproportionate use of force — further increases the need for more transparent reporting. Politically, economically and culturally excluded communities continue to experience disproportionate violations of international humanitarian law, reflecting the deep-rooted stratification of Somali society. Al-Shabaab committed the most egregious violations against civilian populations during the course of the mandate — particularly with regard to the forced recruitment of children. At the same time, the abuse of marginalized communities by anti-Al-Shabaab forces provides an effective recruitment tool for the group and alienates those communities from the emerging State. The largest displacements of people during the mandate were caused by the forced eviction of huge numbers of internally displaced and poor communities from urban centres in Somalia.

Humanitarian access remained extremely fragile, particularly as Al-Shabaab blockaded key towns and supply routes. Efforts by competing authorities to co-opt and extract benefits from humanitarian operations compromised not just the viability of operations but also the ability to work safely across different zones of control. The number of threats against and attacks on humanitarian workers rose, with 10 humanitarian workers being killed and 17 injured from January to July 2015 alone. Reduced budgets, the rising costs of operations as a result of access constraints, the need to mitigate heightened security and diversion risks all added to the pressure on scarce resources.

The international trade in Somali charcoal continues although the political economy on land has changed. Since the recovery of the port city of Barawe in Lower Shabelle in October 2014, Al-Shabaab no longer controls any major export sites. Following the arrest of various officials exporting charcoal immediately following the capture of Barawe, the Monitoring Group believes that the trade in Barawe has ceased. Although the trade continues further south, Al-Shabaab's overall share of income derived from it has been significantly reduced. Early in 2015, falling revenues from charcoal prompted attempts by Al-Shabaab to actively obstruct and deny profit from the trade to its opponents. Although support from Member States and multinational naval partnerships has increased the visibility of the trade, countermeasures employed by charcoal-exporting vessels to avoid identification and tracking, combined with the continuing use of false documentation, have added to the challenges of ensuring that Somali charcoal is not imported by Member States.

Engagement with the Federal Government of Somalia improved markedly during the course of this mandate. The Monitoring Group received support with some investigations from its two designated focal points for security and financial matters. The Group looks forward to continuing and strengthening relations with the Government.

I. Introduction

A. Mandate

1. The mandate of the Monitoring Group on Somalia and Eritrea is contained in paragraph 46 of Security Council resolution 2182 (2014), adopted on 24 October 2014, and paragraph 13 of resolution 2060 (2012). Additional tasks were assigned to the Group under resolutions 2093 (2013) and 2142 (2014).

2. Pursuant to paragraph 46 of resolution 2182 (2014) and paragraph 13 (l) of resolution 2060 (2012), the Monitoring Group provided the Security Council, through the Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, with a midterm briefing on 8 April 2015. The Group also submitted monthly progress reports to the Committee throughout its mandate.

3. In the course of their investigations, members of the Monitoring Group travelled to Bahrain, Belgium, Canada, Djibouti, Ethiopia, France, Lebanon, Malaysia, Norway, Oman, Qatar, Seychelles, Singapore, Somalia, South Africa, Sweden, Switzerland, Turkey, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland and the United States of America. In Somalia, members of the Group were able to undertake regular visits to Mogadishu, Hargeisa and Garowe, and once to Kismayo.

4. The Monitoring Group was based in Nairobi and comprised the following experts: Christophe Trajber (Coordinator), Nicholas Argeros (finance), Zeina Awad (transport), Déirdre Clancy (humanitarian), James Smith (regional), Bogdan Chetreanu (finance) and Jay Bahadur (armed groups).

B. Methodology

5. The evidentiary standards and verification processes outlined in the previous reports of the Monitoring Group apply to work conducted during the mandate under review. The Group reaffirmed its methodology pursuant to its previous reports. The methodology used for the present report is as follows:

(a) Collecting information on events and topics from multiple sources, where possible;

(b) Collecting information from sources with first-hand knowledge of events. where possible;

(c) Identifying consistency in patterns of information and comparing existing knowledge with new information and emerging trends;

(d) Continuously factoring in the expertise and judgement of the relevant expert of the Monitoring Group and the collective assessment of the Group with regard to the credibility of information and the reliability of sources;

(e) Obtaining physical, photographic, audio, video and/or documentary evidence in support of the information collected.

6. The Monitoring Group made a deliberate and systematic effort to gain access to those involved in violations by way of individuals with direct knowledge or who

know people with direct knowledge about details of violations. On some occasions, the Group was able to witness first-hand active violations.

7. The Monitoring Group interviewed a wide range of sources with relevant information, including government officials and representatives of diplomatic missions, civil society organizations and aid agencies. Members of the Group met various government officials, including the President and ministers, and representatives of security agencies. The Group also met or communicated with officials from the Puntland and Somaliland administrations, representatives of political and armed groups, defectors and members of business communities and Somali civil society.

8. In conformity with guidance provided by the Committee, the Monitoring Group endeavoured to include as much of the testimony and evidence as possible in its final report. However, General Assembly resolutions on the control and limitation of documentation, in particular resolutions 52/214, 53/208 and 59/265, necessitated the extensive use of annexes, preventing much of the substance from being translated. In addition, regulations exclude the insertion of maps, photographs and charts in the main report. The Group provided relevant material to the Committee on an ongoing basis throughout its mandate.

9. In accordance with the Secretary-General's bulletin on information sensitivity, classification and handling (ST/SGB/2007/6), the Monitoring Group has submitted to the Committee, together with the present report, several strictly confidential annexes containing information whose disclosure may be detrimental to the proper functioning of the United Nations or to the welfare and safety of its staff or third parties or may violate the Organization's legal obligations. Those annexes will not be issued as a document of the Security Council.

II. Acts that threaten the peace, security and stability of Somalia

A. Spoiler politics and the capture of State resources

10. Harakaat al-Shabaab al-Mujaahidiin (Al-Shabaab) continues to present a severe threat to peace and security in Somalia and throughout the Horn of Africa. The resurgent threat posed by Al-Shabaab throughout the region, and the re-emergence of intercommunal conflict in southern and central Somalia, however, is increasingly tied to the inability of the Federal Government of Somalia, the Federal Parliament of Somalia and the interim regional administrations to foster reconciliation through inclusive and transparent political processes and effectively address endemic corruption.

11. Significant territorial advances against Al-Shabaab by the African Union Mission in Somalia (AMISOM), the Somali National Army and other loosely aligned forces since the end of the transition have not been matched by the expansion of the capacity of the Federal Government of Somalia or the interim regional administrations to maintain security and offer an alternative form of governance. Without this capacity to maintain security, deeply rooted intercommunal conflicts are re-emerging. As Al-Shabaab cedes territory, the group has continued to exploit the re-emergence of intercommunal conflict to recruit among historically marginalized populations.

12. For many among Somalia's political and business elite, the capture and securing of State resources in urban centres of power takes precedence over the consolidation of an effective form of governance and the expansion of public services. The current focus on short-term gains threatens the long-term success of a fragile political process. Without greater commitment among Somalia's power brokers to the political process, progress made since the end of the transition may be reversed, resulting in increased intercommunal conflict and creating a space for militant fundamentalist outfits to continue to offer alternative paths to stability.

Federalization

13. The federalization process arguably represents the most significant political development in southern and central Somalia since the collapse of the State in 1991. Following more than two decades of collapse, implementing a federal system was bound to be a formidable challenge, and one that would necessarily, and rightly, prompt contestation. The capability of the individuals leading the process of federalization and their commitment to the principles agreed upon following the end of the transition were imperative if such contestation was to be effectively managed and conflict minimized.

Interim Jubba Administration

14. In August 2013, the Federal Government of Somalia had little choice but to accept the formation of the Interim Jubba Administration, which claims authority over Gedo, Middle Juba and Lower Juba Regions under the leadership of Ahmed "Madobe" (Mohamed Zubeyr/Ogaden/Darod). The neighbouring countries Kenya and Ethiopia played a greater role in the process than the Federal Government of Somalia, with Ethiopia hosting a conference of the Intergovernmental Authority on Development that resulted in the Addis Ababa Agreement of September 2013, which succeeded in opening lines of communication between the Interim Jubba Administration and the Federal Government of Somalia. Marehan (Darod) communities in the north of the aspiring federal member State, particularly in Gedo Region, were largely excluded from its formation process and as such have largely opposed the interim regional administration. As competition for political dominance continues between the Ogaden and Marehan clans, militarily weaker groups present in the region — including the Digil and Mirifle clans, as well as Somali Bantu communities — have effectively been sidelined from the process.

15. In May 2015 the Interim Jubba Administration established a Regional Assembly of 75 representatives. Ahmed "Madobe's" administration, which led the process, was immediately accused of marginalizing the Digil and Mirifle clans by attempting to appease the Marehan while maintaining Ogaden dominance. Federal Government of Somalia Members of Parliament declared their opposition to the process by adopting a vote of no confidence against the Regional Assembly, resulting in another fallout, this time between administrations in Kismayo, Mogadishu, Baidoa and Garowe.[1] In August 2015, two years after the Addis Ababa Agreement and in line with its terms,

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[1] The Digil- and Mirifle-dominated Interim South-West Administration also voiced its opposition to the marginalization of Digil and Mirifle clans in the Interim Jubba Administration Regional Assembly while the administration of the Majeerteen (Darod)-dominated Puntland State of Somalia accused the Federal Government of Somalia and the Federal Parliament of Somalia of interfering in regional affairs.

the Jubba Regional Assembly voted for the re-appointment of Ahmed "Madobe". Having secured another term, early in September 2015 Ahmed "Madobe" agreed to review and reconstitute the Regional Assembly.

16. In August and September 2015, efforts were under way by an assortment of allied forces with support from AMISOM to recover towns throughout the region from the control of Al-Shabaab. In strategically important urban centres such as Bardhere, following the removal of Al-Shabaab, competing forces have contested administrative control. Further north, in Garbaharey, a day after apparently reconciling differences with the local Marehan-dominated administration in Gedo Region, on 8 August 2015 the Interim Jubba Administration fired the governor and the local leader of Ahl al-Sunna wal-Jama'a, Mohamed Abdi Khalil, prompting demonstrations and the imposition of a curfew by local contingents of the Ethiopian National Defence Force.

Interim South-West Administration

17. The formation of the Interim South-West Administration in 2014 similarly occurred without significant input from the Federal Government of Somalia. The process was well under way before senior officials began to openly support particular actors and parties, divided principally between those aiming to incorporate Bakool, Bay and Lower Shabelle Regions, and those hoping to include Gedo, Middle Jubba and Lower Jubba as well. With assistance from the Federal Government of Somalia, supporters of the former option eventually emerged victorious under the leadership of the former Finance Minister and Speaker of Parliament of the Transitional Federal Government, Sharif Hassan Sheikh Adan, in November 2014. Sharif Hassan has been accused of nepotism in his fledgling administration, appointing his brother, Mohamed Abdinur "Madeer" as his senior adviser, and his nephew, Mohamed Abdullahi Mursal, as "State Minister of Presidency".[2]

Interim Galmudug Administration

18. Having failed to lead the processes in Kismayo and Baidoa, the Federal Government of Somalia played a far more active role in the establishment of the Interim Galmudug Administration, which claims to incorporate Galgadud and Mudug Regions.[3] In August 2014, the Ministry of Interior Affairs and Federalism established a technical committee and tasked it with selecting clan representatives to participate in a reconciliation conference and State formation process, and later selecting members of a Regional Assembly. The Group received multiple reports of interference in the selection of the Chair of the technical committee by the two leading political associations, Damul Jadiid and Ala Sheikh, with the former securing the selection of its preferred candidate, Halimo Ismail Ibrahim "Yarey". The selection of the clan representatives and subsequently the members of the Regional Assembly was similarly tarnished by allegations of interference by the primary stakeholders in the process.[4]

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[2] "Madeer" had served as "president" of the SW3 camp before handing over to his brother when a settlement with SW6 was obtained and the Interim South-West Administration was established.

[3] It remains unclear whether the Interim Galmudug Administration is claiming the north of Mudug Region.

[4] The Monitoring Group has reviewed documentation demonstrating the sidelining of particular members of the technical committee in the selection of clan representatives and members of the regional assembly.

19. A militarily powerful faction of the local contingent of Ahl al-Sunna wal-Jama'a opposed the State formation process from the outset, claiming that the group's signatory on the initial Central Regions State Formation Agreement was not the legitimate representative of Ahl al-Sunna wal-Jama'a. Conflict between Ahl al-Sunna wal-Jama'a and the Somali National Army erupted in and around the town of Guriel in northern Galgadud Region late in 2014. The State formation process subsequently continued without the involvement of Ahl al-Sunna wal-Jama'a and, in July 2014, following a process marred by allegations of vote buying and promises of political appointments to rivals, resulted in the selection of Abdikarim Guled — a key ally of President Hassan Sheikh Mohamud — as president of the interim regional administration. The debate over the northern extent of the aspiring Galmudug federal member State has fuelled tensions with Puntland and threatened to re-ignite conflict in one of Somalia's most fragile regions. Moreover, as of September 2015, a faction of Ahl al-Sunna wal-Jama'a remains in control of northern Galgadud, including the interim regional administration's declared capital, Dhusamareb.[5]

20. Annex 1.1 provides details on the formation of the Interim Galmudug Administration.

Federal Parliament votes for cash

21. Members of the House of the People of the Federal Parliament are tasked with representing their constituencies, reviewing and challenging the work of the Federal Government of Somalia, and reviewing and adopting legislation. The Federal Parliament's role in ensuring that progress in Somalia's political development is sustained is entirely dependent upon the integrity and independence of its members. The Monitoring Group has documented the extensive abuse of the voting privileges of Members of the Federal Parliament. When important motions are tabled in Parliament, particularly votes of no confidence against a sitting Prime Minister, significant numbers of Members of Parliament will sell their vote to the highest bidder. The practice of "votes for cash" is so engrained that a network of brokers has emerged since the end of the transition, tasked with purchasing the allegiance of willing Members of Parliament and threatening those that refuse. Brokers will tend to serve the interests of either President Hassan Sheikh Mohamud or his opponents. More broadly, battles for influence are fought in Parliament between the two leading political-religious associations: Damul Jadiid, aligned with the President, and Ala Sheikh, in opposition.

22. Strictly confidential annex 1.2 provides details on the prevalence of bribery of Members of Parliament.

Independent commissions

23. The independent commissions mandated by the 2012 Provisional Constitution were designed to guide the process of federalization and support the consolidation of post-transition political arrangements. If established promptly and according to the principles of the Provisional Constitution, the commissions would have added legitimacy to the political process following the end of the transition, and ensured a smoother handover of authority to the next federal administration in 2016.

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[5] The Galmudug model has now been adopted by the Federal Government of Somalia in the creation of an interim regional administration incorporating Hiran and Middle Shabelle Regions.

24. In three years, and over the course of six parliamentary sessions, Members of Parliament have successfully established just four of the nine independent commissions mandated by the 2012 Provisional Constitution. The Provisional Constitution Review and Implementation Commission, consisting of five members, was established in May 2014, almost 20 months into the Federal Government of Somalia's term. While it was initially praised for being broadly representative and composed of competent individuals, the challenges of achieving its goals were quickly made apparent. On 5 May 2015, the Commission's Chair, Asha Gelle Diriye, resigned from the Commission, citing a general lack of prioritization given to the completion of the constitution and a lack of funding for the Commission.[6]

25. The Boundaries and Federation Commission was finally established on 6 July 2015, two days after the establishment of the third interim regional administration in Galmudug, as tensions between administrations in Adado and Garowe over the northern border of the aspiring federal member State were mounting. The National Independent Electoral Commission was established on the same day. Three weeks later, a parliamentary committee announced that the Parliament and the Federal Government of Somalia had agreed that general elections based on universal suffrage would not be held in 2016, citing the "upsurge of violence" and "political turmoil".[7]

26. The limited efforts made by both the Federal Government and the Federal Parliament of Somalia to establish and support these important independent bodies suggest a lack of interest in instigating dialogue and listening to the views of the Somali people, undermining the legitimacy of the current institutions and raising concerns about the process by which the next federal government will be established in 2016.

Conclusions

27. The Monitoring Group has previously warned of the potential threat to peace, security and stability posed by "spoiler networks in Somalia" (S/2013/413). The Group has described how the attempts by the political and business elite to capture State resources in the federalization process have either delayed or actively obstructed reconciliation efforts. Instead of seeking to fill the void left by Al-Shabaab following territorial victories against the group, efforts remain focused on securing authority in urban centres. The failure of both the Federal Government and the Federal Parliament of Somalia to establish much-needed institutions ahead of the next transition phase in 2016 is also symptomatic of a system in which the interests of the few override those of the many. A resurgent Al-Shabaab will exploit any opportunities to recruit among populations abandoned by the federalization and State-building process. Efforts to prevent the engagement of more stakeholders in the ongoing political process in the run-up to the 2016 election are spoiling the political process, and by doing so threaten both the fragile gains made in recent years and the long-term peace, security and stability of Somalia.

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[6] An unofficial translation of Asha Gelle Diriye's resignation letter is held on file with the Monitoring Group.

[7] See Mohamed Sheikh Nor, "Somalia scraps plans to elect next President in popular vote", *Bloomberg Business*, 30 July 2015. Available from http://www.bloomberg.com/news/articles/2015-07-29/somalia-scraps-plans-to-elect-next-president-in-popular-ballot.

B. Natural resources

28. Conflict throughout the Somali region — particularly in southern and central Somalia — has long revolved around access to fertile land and water resources. Historically, such conflicts have tended to pit the dominant, traditionally pastoralist and militarily stronger clans against weaker, often unarmed agriculturalist and agro-pastoralist communities. The presence of a strong, if ruthless, administration under Al-Shabaab in southern and central Somalia largely subdued intercommunal conflict over land and water resources. The removal of Al-Shabaab as a governing authority in many regions has created a power vacuum, with neither the Federal Government of Somalia nor the fledgling interim regional administrations sufficiently able to fill it, or help to rebuild effective local administrations capable of maintaining security. There has been a marked increase in intercommunal conflict since the end of the transition in 2012, reminding both local and international actors that the removal of Al-Shabaab alone is not a panacea for the peace and security of Somalia and the broader Horn of Africa region.

29. Concurrently, there has been a significant increase in international interest in natural resources in Somalia. Private companies have been eager to announce the demise of Al-Shabaab and thus the start of a new era of relative calm, in order to usher in a new phase of exploitation of Somalia's mineral and maritime resources. A seismic option agreement signed with Soma Oil & Gas Holdings Ltd. in August 2013 brought an end to two decades of force majeure conditions declared by oil companies in southern and central Somalia. The contract signed with Somalia-Fishguard Ltd. similarly marked the start of a renewed expansion in the fisheries sector. The growth of interest in Somalia's mineral and maritime resources has not been matched by efforts to establish effective legislation for the management and sharing of resource wealth with existing and future federal member States, raising serious concerns over the prospects of a new phase of resource conflict in the Horn of Africa.

Intercommunal conflict over land and water resources

30. In Somaliland, although it remained relatively unscathed by Al-Shabaab and has secured a degree of stability since the mid-1990s, land disputes now represent the leading cause of conflict. The Group recorded at least 45 incidents related to land disputes between September 2014 and August 2015 in the territory claimed by Somaliland. Land-related conflicts extend well beyond the troubled Sool and Sanaag Regions, prompting the Somaliland authorities to implement a series of measures to address the problem. The increasing trend of illegal enclosures on common areas, prompted by growing appreciation of the commercial value of land, indicates the potential problems that may be faced in southern and central Somalia when current conflict patterns are overcome.

31. Sporadic inter-Majeerteen (Harti/Darod) clashes have continued in Puntland over both urban and grazing land. In southern Mudug Region — now nominally under the control of the Interim Galmudug Administration — tensions between Marehan (Darod) and Haber Gedir (Hawiye) sub-clans over land ownership erupted into conflict late in 2014 and again early in 2015 in and around the town of Saaxo near the Ethiopian border. Land-related conflict in Middle Shabelle Region between the dominant Abgaal (Hawiye) clan and minority Shidle (Bantu) communities appear to have been superseded by intra-Abgaal clashes in 2015. Since the Group's

previous report (S/2014/726) intercommunal conflict in Lower Shabelle Region, now nominally part of the Interim South-West Administration, has continued and shows few signs of abating despite various reconciliation efforts. In Hiran, Hawadle militia, supported by the Somali National Army, have launched fierce attacks on the villages of Kabxanley and Defow outside Belet Weyne in an attempt to permanently displace the Surre farming community from their lands along the fertile banks of the Shabelle River (see annex 6.3.a and strictly confidential annex 6.3.b).

32. In Middle Juba — mostly still held by Al-Shabaab — inter-clan conflict between Dhulbahante (Harti/Darod), Awliahan (Ogaden/Darod) and Sheikhal (Hawiye) clans over pasturelands broke out early in 2015. Al-Shabaab attempts to reconcile the competing groups in Bu'ale were ultimately unsuccessful, suggesting its weakening grip on intercommunal relations in the area ahead of the "Juba Corridor" offensive led by AMISOM and allied anti-Al-Shabaab forces. The Juba Valley, like the lower reaches of the Shabelle River, has been the scene of fierce contestation over land rights since before collapse of the Somali State in 1991.[8] The Monitoring Group is concerned that, following the removal of Al-Shabaab from the region, historically marginalized communities will suffer at the hand of militarily stronger communities vying for fertile agricultural land for commercial exploitation along the lower reaches of the Juba River.

The re-emergence of illegal, unreported and unregulated fishing

33. The Monitoring Group is indebted to Jorge Torrens of the Food and Agriculture Organization of the United Nations — who died near Hargeisa, Somaliland, on 29 April 2015 while carrying out his duty — for first bringing the renewed problem of illegal, unreported and unregulated fishing in Somalia to its attention.

34. At 3,300 km, the coastline of Somalia is the longest in continental Africa. The country's 200 nautical mile exclusive economic zone hosts productive and largely unexploited fishing grounds, containing both migratory fish species, such as tuna, and several demersal fish and crustacean species. Taking advantage of the limited maritime surveillance capability of the Federal Government of Somalia, many foreign vessels fish in Somali waters in contravention of international law and the Federal Government of Somalia Fisheries Law, either without licences or with forged documents, and without reporting data to any Somali authority.[9]

35. Illegal, unreported and unregulated fishing represents a significant threat to peace and security in Somalia. Illegal fishing is frequently cited as a contributing factor in the emergence of piracy in Somalia as early as the mid-1990s, as foreign vessels came into conflict with local fishermen, who in turn began to resort to hijackings at sea.[10] The drastic surge in Somali piracy in 2007 led to a corresponding decrease in foreign fishing vessels operating within Somalia's

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[8] Catherine Besteman and Lee V. Cassanelli, eds., *The Struggle for Land in Southern Somalia: The War Behind the War* (London, Haan Publishing, 1996).

[9] Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia", paper presented at the 19th session of the Indian Ocean Tuna Commission, held in Busan, Republic of Korea, from 27 April to 1 May 2015, and drafted by the Food and Agriculture Organization of the United Nations (FAO) on behalf of the Federal Government of Somalia.

[10] See, for example, Jay Bahadur, *The Pirates of Somalia: Inside Their Hidden World* (New York, Pantheon Books, 2011).

exclusive economic zone.[11] However, the sharp drop in pirate activity along the coast of Somalia since 2012 has resulted in foreign fleets resuming fishing in the Somali basin.[12] The previous dynamic of conflict between illegal, unreported and unregulated fishing vessels and local fishermen and militias has consequently re-emerged, particularly in central Somalia.

36. In the case of the fishing dhow *Aresh*, the Galmudug Coast Guard arrested it 120 km north of Hobyo on 1 April 2015.[13] After their arrest, the crewmembers and a captain acknowledged that they had been fishing illegally. Galmudug authorities assessed the vessel a $100,000 fine which was paid and the vessel released by 16 April 2015.[14] On 23 April 2015 the Iranian-flagged dhow *Al Momen* was seized off Qandala, Puntland, possibly by its own Somali security detachment, and subsequently released without incident. On 13 May 2015, the Iranian dhow *Sudis* experienced mechanical failure and ran aground near Mareg in central Somalia. The dhow's 14 crewmembers were reportedly captured by Al-Shabaab; their fate remains unknown at the time of writing.[15]

37. The Monitoring Group is concerned that the return of foreign fleets to Somali waters, fishing close to the shoreline and equipped with armed security detachments, represents a threat to the peace, security and stability of Somalia. Such practices threaten to lead not only to conflict with local fishermen and concomitant loss of life, but may also provoke a vigilante response from local communities similar to that which contributed to the rise of Somali piracy more than a decade ago.

Continuing privatization of Somalia's maritime space

38. The Monitoring Group is concerned about the continuing prevalence of private maritime security firms in Somalia entering partnerships with local authorities to provide Coast Guard and/or policing services. In a number of cases, such private security companies have also been tasked by local authorities with selling fishing licences and managing Somalia's marine resources, which constitutes, at a minimum, a conflict of interest. One such company, Somalia Fishguard Ltd., was highlighted in the Monitoring Group's previous report (S/2014/726, annex 5.1). The Monitoring Group notes with concern that Somalia's past practice of entrusting private companies with the dual role of selling fishing licences and managing maritime security posed a threat to peace and stability. Such companies have privileged foreign clients, even to the point of providing foreign fishing vessels with armed guards, again leading to potential conflict with local fishermen and coastal communities.

39. During the mandate, two private companies — Somali Security Services Ltd. and Anglo Somaliland Resources Ltd. — have entered into agreements in Puntland and Somaliland, respectively, to provide services relating to the fisheries sector. These two contracts are discussed in annex 2.3.

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[11] Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia" (see footnote 10).

[12] Ibid.

[13] Ibid.

[14] Monitoring Group interview with a FAO official in Nairobi, 21 May 2015.

[15] Information from the European Union Naval Force, received by e-mail by the Monitoring Group, 28 May 2015.

Potential corruption in the sale of fishing licences

40. In its report of 2014, the Monitoring Group continued to investigate acts of corruption that undermined public institutions "through the diversion of national financial flows", while noting "the perpetuation of conventional patterns of diversion by holders of public office and civil servants with access to national resources or by gatekeepers of government offices" (S/2014/726, para. 62). In this light, the Group has identified the illicit sale of fishing licences to foreign clients as an avenue for Federal Government of Somalia and other Somali officials to misappropriate public resources.

41. The Group has found evidence of the sale of fishing licences, both by Federal Government of Somalia and Puntland officials, conducted outside the revenue-gathering apparatus of the State. For instance, since May 2015 the Federal Government of Somalia Ministry of Fisheries and Marine Resources has been issuing licences to Chinese longliners and routing the proceeds into a private ministerial bank account in Djibouti,[16] in contravention of the ministerial order of February 2014 requiring all Federal Government of Somalia agencies to channel revenues through the Treasury Single Account at the Central Bank of Somalia (S/2014/726, para. 64). The Group supplied the details of this bank account to the Federal Government of Somalia Ministry of Finance on 18 July 2015.[17]

42. The Group has obtained a draft agreement between the Federal Government of Somalia Ministry of Fisheries and Marine Resources and Doggang Daping Enterprises Group, a multinational fishing company based in Liaoning, China. The agreement grants Doggang Daping a seven-year exclusive authorization to fish within Somalia's exclusive economic zone, and allows the company to bring its own armed security on board its fishing vessels and in its future offices in Somalia, which would likely constitute a violation of the arms embargo. The draft agreement with the Doggang Daping Enterprises Group is set out in annex 2.1.e.

Fishing vessel *Al Amal* and the assault on the Federal Government of Somalia Auditor General

43. On 15 January 2015, the Yemen-registered fishing carrier vessel *Al Amal* entered Mogadishu port flying the Somali flag, reportedly in order to refuel. The Auditor General of the Federal Government of Somalia, Nur Jimale Farah, conducted an inspection of the *Al Amal*, and determined that it was fishing illegally. Although Farah attempted to hold the vessel, it was released on 15 January 2015 under suspicious circumstances and departed Mogadishu port.

44. In an event much publicized in local media, on 18 January 2015 the Auditor General was prevented from entering his office at Villa Somalia and reportedly assaulted by the compound's guards. Farah told the Monitoring Group that he believed his actions related to the *Al Amal* had brought on the attack, and that he had since stopped investigating illegal, unreported and unregulated fishing because he feared for his safety.[18]

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[16] Copies of Federal Government of Somalia licences issued by the Ministry and remittance slips are presented in annex 2.1.b and c.

[17] E-mail dated 18 July 2015 from the Monitoring Group to the Federal Government of Somalia Minister of Finance, Mohamed Aden Ibrahim.

[18] Monitoring Group interview with Nur Farah in Nairobi, 21 March 2015.

45. A complete account of the *Al Amal*'s activities, as well as the assault on the Auditor General, is presented in annex 2.2.

The extractives sector

46. In its 2013 report (S/2013/413) the Group discussed the threat to peace and security posed by the extractives sector in Somalia. The Group highlighted the risk of corruption in the sector, drawing particular attention to the shortcomings of the Somalia Petroleum Corporation and the Somali Petroleum Authority — two independent bodies mandated by the Somali Government's 2008 Petroleum Law but yet to be established as viably functioning institutions. In its 2014 report, the Group again highlighted the lack of transparency in the oil and gas sector, drawing particular attention to an exploration contract obtained by Soma Oil & Gas Holdings Ltd. (Soma), a London-based extractives exploration company incorporated on 26 April 2013 and chaired by the former leader of the United Kingdom Conservative Party, Michael Howard (S/2014/726, annex 5.1).

47. In May 2013, the then-Minister for National Resources,[19] Abdirizak Omar Mohamed, stated that the Federal Government of Somalia "should wait until we have the right laws in place" before entering into agreements with oil and gas companies.[20] Three months later, on 6 August 2013, Soma signed a seismic option agreement with the Federal Government of Somalia Ministry of Petroleum and Mineral Resources, giving the company the right to conduct a seismic survey off Somalia's southern and central coast. The contract also gave the company the subsequent right to exploit 12 offshore oil and gas blocks of its own choosing, totalling 60,000 km^2. The sudden announcement of the agreement came as a shock to both the oil and gas industry and the Somalia diplomatic community.[21]

Soma Oil & Gas Holdings Ltd.

48. On 28 July 2015, the Monitoring Group submitted a confidential communication[22] to the Committee detailing how Soma's activities in Somalia constituted violations of paragraph 2 of resolution 2002 (2011) and paragraph 2 (c) of resolution 2060 (2012), by undermining Somali public institutions through corruption. The communication described how beginning in June 2014 Soma has made systematic payoffs to officials within the Federal Government of Somalia Ministry of Petroleum and Mineral Resources — including the Director General, Deputy Director General, and other senior civil servants — under the auspices of a so-called "capacity-building agreement".

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[19] The Ministry of National Resources was split into four successor ministries in January 2014, one of which was the Ministry of Petroleum and Mineral Resources.

[20] Katrina Manson, "Somalia: oil thrown on the fire", *The Financial Times*, 13 May 2013.

[21] Based on numerous Monitoring Group interviews with oil and gas experts, as well as diplomats based in London and Nairobi. Soma's brief six-month history as a company, the granting of a dozen blocks to Soma without a prior licensing round, the fact that the Federal Government of Somalia had received at least one superior offer by an oil major, and the Federal Government of Somalia's previous public commitment to refrain from signing oil and gas deals until viable institutions were in place, were all cited to the Group as highly unusual features of the Soma deal.

[22] S/AC.29/2015/SEMG/OC.31.

49. The Group has determined that these "capacity-building" funds, which had totalled $490,000 by 28 May 2015,[23] were likely part of a quid pro quo arrangement designed to protect the seismic option agreement from the scrutiny of the Financial Governance Committee. Furthermore, officials on Soma's payroll were directly involved in subsequent negotiations over the draft production-sharing agreement between Soma and the Ministry, representing a conflict of interest.

50. Under the capacity-building agreement, the company also made payments to a Federal Government of Somalia presidential oil and gas adviser, Abdullahi Haider Mohamed, who the company acknowledged had "represented the Federal Government ... in the negotiations around the seismic option agreement that was signed in August 2013".[24] Yet following the transmission of the Group's communication to the Committee, Soma issued a press release claiming that no individual paid by the company "was, or is, in a position to influence the decision to grant any commercial agreements for the benefit of Soma".[25] The company, therefore, sought to mislead the Monitoring Group during its investigation, and made inaccurate public statements relating to the capacity-building agreement once the Group's findings had become known.

51. The Monitoring Group's full case study of Soma Oil & Gas Holdings Ltd., based largely on the material presented in the Group's communication of 28 July 2015 to the Committee, appears in annex 2.5.

Circumvention of the Federal Government of Somalia Treasury Single Account

52. Like other ministries highlighted in the Group's current report, the Ministry of Petroleum and Mineral Resources has made routine attempts to undermine public financial management in Somalia by channelling revenues outside the Treasury Single Account at the Central Bank. For instance, the Director General, Farah Abdi Hassan, directed Soma to transfer its "capacity-building" funds into a private account held by the Ministry at the International Bank of Somalia (IBS), which Hassan referred to in an e-mail to Soma as "more efficient than the central bank".[26] Soma elected instead to transfer the funds to the Ministry's account at the Central Bank.

53. However, the Group has learned of at least one instance in which the Ministry successfully diverted public revenues to its IBS account. On 16 May 2015, CGG — a company responsible for paying royalties on the sale of Somalia's seismic data to the Federal Government of Somalia — transferred a $633,866.69 payment into the Ministry's IBS account (a confirmation certificate for the Ministry's IBS account is provided in annex 2.5.q).

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[23] Soma also transferred $100,000 to the Ministry on 18 December 2014 to be used towards the construction of a data room intended to store the data collected during Soma's seismic survey. In its communication dated 28 July 2015 to the Committee Chair, the Monitoring Group noted that no progress had been made towards the construction of this data room, but had yet to determine what had transpired with these funds. The Group has since obtained Central Bank of Somalia records showing that by mid-March 2015 the funds were no longer in the Ministry's bank account.

[24] Letter dated 1 July 2015 from Soma to the Monitoring Group (S/AC.29/2015/NOTE.25/Add.4).

[25] Soma Oil & Gas Holdings Ltd., "Response to the United Nations Somalia and Eritrea Monitoring Group comments on capacity-building agreement", 3 August 2015. Available from www.somaoilandgas.com/response-to-united-nation/.

[26] E-mail dated 29 June 2014 from Farah Abdi Hassan to Soma chief executive Robert Sheppard and chief financial officer Philip Wolfe.

54. Directing revenues around the Treasury Single Account — a centralized account over which the Federal Government of Somalia Ministry of Finance has oversight — has the effect of turning Federal Government of Somalia ministries into rent-seeking institutions capable of being captured by individual members of the Government, thereby fuelling corruption and conflict.

Absence of a resource-sharing framework

55. In its 2013 report (S/2013/413, para. 79), the Monitoring Group highlighted the lack of "constitutional agreements" on resource-sharing between the Federal Government of Somalia and Somalia's regional administrations as a threat to peace and security. The Group observed a "growing hostility" between the Federal Government of Somalia and regional administrations that had signed oil and gas deals independently of the Federal Government (ibid., para. 77). Despite the continuing absence of a constitutional resource-sharing framework, both the Federal Government of Somalia and the regional administrations continue to enter contract discussions, and sign agreements, with international oil and gas companies.[27]

56. Most recently, on 5 September 2015 the Federal Government of Somalia signed an agreement with the Norwegian company Spectrum ASA, granting it the right to conduct a seismic data survey encompassing 28,000 km^2 of offshore territory in central and southern Somalia. On 1 September 2015, the Puntland Petroleum Minerals Agency and the Houston-based ION Geophysical Corporation similarly announced they had signed an agreement allowing the company to acquire 8,000 km^2 of seismic data "covering the entire Somalia Puntland offshore margin".[28]

Federal Government of Somalia licensing of oil blocks in Somaliland and Puntland

57. The Monitoring Group is seriously concerned that, in the current context of peace and security, the Federal Government of Somalia Ministry of Petroleum and Mineral Resources is attempting to recommence negotiations with the oil major ConocoPhillips Co. over its pre-civil war concessions now located in Somaliland and Puntland.[29] ConocoPhillips' pre-1991 concession includes blocks spanning Sool and Sanaag, two administrative regions that are actively disputed between Somaliland and Puntland, as well as with the self-declared regional State of Khatumo.

58. The Group has seen an e-mail dated 25 August 2014 from the Director of Exploration at the Ministry, Abdulkadir Abiikar Hussein,[30] to Kay Larcom, a manager at ConocoPhillips. The e-mail refers to a meeting held in Washington, D.C., on 8 August 2014 involving the Ministry and Larcom, and assures her that the Ministry is "determined" to work on "pre-1991 contracts in *North and North-east Somalia* [emphasis added]". The use of the term "North Somalia" to refer to

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[27] International oil and gas companies with which the Federal Government of Somalia has conducted recent discussions include: Allied Petroleum Corp., Amsas Consulting, BGP Inc., ConocoPhillips Co., Kilimanjaro Capital, Milio International, Mubadala Petroleum, New Age Ltd., Royal Dutch Shell plc, Schlumberger Ltd., Spectrum Geo Ltd., and Total S.A.

[28] Spectrum ASA, "Spectrum signs seismic data agreement to kick-start oil exploration offshore Somalia", press release, 7 September 2015. Available from http://www.spectrumgeo.com/wp-content/uploads/FINAL-NEW-2015-09-07-Somalia-Data-Deal-Announced.pdf.

[29] Like other oil majors, Conoco Inc. declared force majeure in 1991 and suspended operations in Somalia. Conoco Inc. and Phillips Petroleum Co. merged in 2002 to form ConocoPhillips Co.

[30] Abdulkadir Abiikar Hussein was among the civil servants paid under Soma's "capacity-building agreement". Hussein received $39,000 from Soma between May 2014 and April 2015.

Somaliland, and "North-east Somalia" to refer to Puntland, reveals a worrying disregard for Federal relations with regional bodies. The Ministry's interaction with ConocoPhillips also illustrates the Group's concern that in the absence of a resource-sharing agreement — clearly delineating the roles of the Federal Government and the regional administrations when engaging with international oil companies — Somalia's untapped hydrocarbons wealth is likely only to fuel political tension and conflict. Until such a constitutional arrangement is reached, international oil companies — such as Soma — will continue to take advantage of an environment lacking in strong institutions, striking favourable deals with individual brokers in Government rather than independent contracting bodies.

59. In this context, the Monitoring Group will continue to urge the Security Council to impose a moratorium on oil and gas agreements within Somalia, until such time as the Federal Government of Somalia has established viable institutions to regulate the sector, as stipulated in the country's 2008 Petroleum Law.

C. Public financial management and misappropriation

60. The Monitoring Group has noticed modest improvements in public financial management. Ambitious initiatives have been introduced, but the implementation of these initiatives remains slow. Disruption caused by the removal of two prime ministers and their cabinets within the span of two years has delayed reform. The apparent impunity enjoyed by those who have engaged in misappropriation of public finances perpetuates a culture of corruption in Somali politics.[31]

Budget

61. By the 2015 Budget Appropriation Act the Somali Government pledged to "rely on [its] own resources". Despite this ambitious declaration, the 2015 budget prepared under the previous Minister of Finance, Hussein Abdi Halane, was heavily dependent on pledges of budgetary support from various countries members of the Organization of Islamic Cooperation (OIC).[32] The Monitoring Group has determined that the under-delivery of external support left Somali National Army troops unpaid for several months.

62. When forced to revise the budget in mid-2015 owing to the lack of delivery of OIC member country pledges, a more realistic budget was prepared prompting greater discipline in Government expenditure. The 2015 budgetary crisis also prompted the formation of an interministerial budget strategy committee tasked with the preparation of the 2016 federal budget. However, as the Federal Government of Somalia enters a year of transition and pressures on public finances grow, adhering to a prepared plan for revenue collection and government expenditure is likely to become increasingly difficult.

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[31] The Monitoring Group is not aware of charges successfully brought against any public official for acts of misappropriation since the end of the transition in 2012.

[32] The Monitoring Group was informed by a senior adviser to the President on 1 September 2015 that the Federal Government of Somalia had counted on pledges of $124 million from the Arab League, $40 million from Turkey and $18 million from Qatar, none of which were delivered.

Federal institutions and instruments

63. While the Monitoring Group notes that the Central Bank of Somalia has made significant efforts to improve accountability and transparency, it remains ineffective as Somalia's main financial regulatory and supervisory body. A significant proportion of Government revenue continues to bypass the Treasury Single Account. Funding allocated to government ministries, departments and agencies continues to be withdrawn from the Central Bank in cash, with little to no accountability thereafter. The multitude of *hawala* transfer companies remain unregulated by the Central Bank, rendering remittance flows vulnerable to external fears about their use in money-laundering and the financing of terrorism.[33] Out-dated financial legislation from the 1960s remains in force but is poorly implemented. A draft bill that would have regulated foreign investment in Somalia was withdrawn by the Government in December 2014 after a second reading in Parliament. Draft legislation to establish the Office of the Ombudsman was voted down by Parliament in July 2013 and has not been revisited since.[34] The Public Procurement, Concessions and Disposal Act was passed by the Cabinet of Ministers in May 2014 but at the time of writing still awaits approval by Parliament. At the time of writing, legislation to establish the Anti-Corruption Commission had yet to be tabled.

64. The Financial Governance Committee was established in mid-2014 with an oversight role in relation to State asset recovery and public concessions. The Security Council in resolution 2182 (2014) encouraged the Federal Government of Somalia to use the Committee effectively. While the Financial Governance Committee has proved to be a useful advisory body it has yet to demonstrate effective oversight. At the time of writing, no discernible action had been taken on most of the contracts reviewed in 2014.[35] Although compliance among government ministries, departments and agencies with the Financial Governance Committee is improving, some ministries have continued to bypass the Committee when negotiating important public contracts.[36] In disingenuous attempts to demonstrate transparency, public officials have made references to the Financial Governance Committee when discussing agreements which have not in fact been reviewed by the Committee.[37]

65. In November 2014, the Ministry of Finance officially launched the Somali Financial Management Information System designed to register Government income

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[33] Following the Al-Shabaab attack on Garissa University in April 2015, the Government of Kenya banned all *hawala* companies from transferring funds for almost three months.

[34] The Office of the Ombudsman, mandated in the 2012 Provisional Constitution, was intended to investigate complaints of abuse of power by public officials.

[35] The Monitoring Group was informed by the Federal Government of Somalia Minister of Finance in September 2015 that action on these contracts would be taken within two months.

[36] Examples include the agreement between Proje Gozetim Muhendislik and the Ministry of Commerce and Industry for import-export quality assurance; the agreement on the collection of khat taxation between 2011 and June 2015; and the agreement between the Somali National Army and the company providing rations to its troops (see strictly confidential annex 3.1).

[37] A press release issued on 12 August 2015 by the Ministry of Petroleum and Mineral Resources in response to the Monitoring Group's report on its "capacity-building agreement" refers to the Financial Governance Committee as a demonstration of the Ministry's commitment to transparency. The Monitoring Group received confirmation from the Committee that the "capacity-building agreement" had been neither reviewed by nor shared with it. The Monitoring Group also believes that the threat of the outcome of the Financial Governance Committee's review of the original seismic option agreement was used in negotiations with Soma Oil & Gas regarding its "capacity-building agreement".

and expenditure in real time. Implementation of the system within Government ministries, departments and agencies is ongoing. If effectively utilized by Government ministries, the system will represent an important development.

66. The re-engagement of the International Monetary Fund (IMF) after more than 25 years is also an important development for Somalia. The IMF Trust Fund for Capacity Development is a welcome initiative given the pressing need for effective capacity-building programmes, particularly in the institutions tasked with managing the Federal Government's finances and developing the extractives sectors.

Misappropriation in the security sector[38]

67. Few cases illustrate the threat posed by financial mismanagement and misappropriation to peace, security and stability in Somalia more than corruption within the Federal Government security institutions. The Somali National Army is by far the largest security institution in Somalia. Effective management of its forces and finances is vital if the territorial gains against Al-Shabaab are to be preserved and if possible collapse of the State following the departure of AMISOM forces at some point in the future is to be prevented. Owing to severe budget limitations, the Federal Government of Somalia has struggled to pay the salaries of Somali National Army troops throughout 2015.[39]

68. Evidence collected by the Monitoring Group demonstrates a lack of understanding within and coordination between institutions of the Federal Government of Somalia regarding its single greatest expense, the payment of the Somali National Army. The current strength, structure and composition of the army also remain unclear. Evidence collected by the Group indicates that the army hierarchy has systematically inflated the troop numbers in order to secure greater funding for salaries and rations. Family and business ties between those responsible for ensuring that the Somali National Army is provisioned, and the company providing its dry food rations — amounting to upwards of $8 million each year — also suggest a serious conflict of interest. The almost exclusive use of cash for payments, distinct lack of accountability measures, and absence of any independent oversight has left the army leadership free to exploit Government revenue at the expense of its soldiers' and citizens' security.

69. The extent of misappropriation and impunity within the Somali National Army has dented donor confidence in the Federal Government of Somalia, which has acknowledged the gravity of the situation. The Group's investigations into Somali National Army misappropriation were supported by the National Security Adviser's Office, as well as the Ministry of Finance in August and September 2015. The replacement of General Dahir Adan Elmi as the Chief of the Armed Forces on 3 September 2015 represented a positive step towards reform. The announcement by President Hassan Sheikh Mohamud on 9 September 2015 committing the Federal Government of Somalia to comprehensive reform within the security sector is an encouraging and commendable development.[40]

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[38] For a comprehensive summary of misappropriation in the Somali National Army, see strictly confidential annex 3.1.

[39] As of July 2015, only January's salary payroll had been distributed.

[40] "The President: 'We are committed to substantive security sector reform'", Office of the Somali President, press release, 9 September 2015.

The Nairobi Embassy

70. Previous reports have detailed misappropriation within Somalia's foreign embassies (see, for example, S/2012/544, paras. 18-21 and S/2013/413, paras. 72-73). The Monitoring Group is concerned by evidence of serious irregularities occurring at the Somali Embassy in Nairobi, under former Ambassador Mohamed Ali Nur "Americo".[41] Between January 2014 and April 2015, the Embassy collected $960,836 in fees for over 7,500 Somali passports and emergency travel documents.[42] During the same period, only $486,258 was remitted to the Ministry of the Interior account at the Central Bank in Mogadishu, leaving $474,578 unaccounted for.[43] The Group is also concerned about a donation of $1 million from the Government of China in 2013, of which $479,314 was remitted to the Central Bank, and the remaining $517,686 allegedly paid in legal fees to the Nairobi-based law firm Ibrahim, Issack & Company (see annex 3.2).

71. According to a former Somali diplomat, 10 days prior to the Ambassador's departure from the Embassy, a team of information technology specialists were called in to remove sensitive information from the office computers, while hard copies of documentation were systematically destroyed.[44] The Monitoring Group is encouraged by the decision of the new Somali Ambassador to Kenya, Jamal Hassan, who took office on 4 August 2015, to conduct an independent audit of the Embassy's accounts and also to install tight financial discipline (see annex 3.2).

Mogadishu port rehabilitation funds

72. In 1993, United Nations peacekeepers assumed control over Mogadishu port in order to ensure humanitarian access to Somalia. Peacekeeping forces of UNITAF (United Task Force) managed the collection of port fees on behalf of the Somali Government until 1995, when they turned the funds over to a trust fund managed by the United Nations Development Programme (UNDP) Somalia and the World Food Programme (WFP). In July 1997, the funds, totalling $1,003,930, were transferred into a trust managed solely by UNDP Somalia, which the agency designated towards a Mogadishu Port rehabilitation project.

73. On 17 March 2014, the then-Minister of Ports and Marine Transport, Yusuf Moallim Amin "Baadiyow", requested that UNDP Somalia turn over the port funds to the Ministry. After internal consultations, UNDP Somalia agreed to transfer the funds on the condition that that they be routed through the Federal Government of Somalia's Treasury Single Account.[45]

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[41] "Americo" was recalled to Mogadishu in April 2015, having served as Ambassador in Kenya since 2004.

[42] Applicants are required to pay a combined fee of $130 and K Sh 2,000 (approximately $20) into accounts held at the branch of Transnational Bank in Nairobi.

[43] The Nairobi Embassy is allocated $49,200 from the Ministry of Foreign Affairs account at the Central Bank every quarter to cover operational costs. According to the Minister of Finance any other funds collected by embassies should be transferred to the Central Bank, in the Single Treasury Account.

[44] According to the former Somali diplomat, the team was called to run updates on the computers.

[45] This process would comply with a Ministry of Finance directive of February 2014 which required all Government revenue to be deposited in the Treasury Single Account at the Central Bank of Somalia.

74. In September 2014, UNDP Somalia transferred port rehabilitation funds, which by this time amounted to over $1.8 million, with accrued interest. However, instead of using the Treasury Single Account, as agreed, the funds were transferred to a Mogadishu Port account at the Central Bank of Somalia (CBS), account No. 1035. From 13 to 20 September 2014, Amin authorized the withdrawal of almost $1.7 million in cash from CBS account No. 1035 — almost the entirety of the port rehabilitation funds.

75. The Monitoring Group has since obtained evidence suggesting that Amin and the then-Director General of the Ministry of Ports and Marine Transport, Abdullahi Ali Nur, likely misappropriated the funds.[46] A detailed account of this misappropriation of public financial resources is presented in annex 3.3.

Khat taxation

76. The Monitoring Group is concerned by the existence until June 2015 of an illegal agreement between the Ministry of Finance and the Somali company ADCO governing the taxation of the narcotic substance khat. The agreement resulted in a substantial shortfall in taxes collected by the Federal Government of Somalia on the import of khat to Somalia, and thus can be interpreted as non-compliance with paragraph 38 of resolution 2182 (2014), in which the Security Council called for transparent and accountable public financial management, as well as for Federal Government of Somalia revenue to be channelled through the national budget.

77. The Monitoring Group is encouraged by the decision of the Attorney General of Somalia to investigate the illegal amendments and lowering of taxes around the khat tariff regime (see annex 3.4).

D. Harakaat al-Shabaab al-Mujaahidiin

Current status

78. As noted in the Monitoring Group's previous report, Harakaat al-Shabaab al-Mujaahidiin remains a major threat to peace and security within Somalia, as well as a major destabilizing force in the East Africa region (S/2014/726, para. 10). As in past years, the group continues to cede territory in the face of military advances by joint AMISOM-Somali National Army forces and their strategic partners, preferring to retreat into the countryside and subsequently cut off supply routes to the reclaimed areas. The group also continues its expansion as a transnational organization, particularly focusing its terror operations against neighbouring Kenya.

79. Following the death of Al-Shabaab's emir, Muktar Ali al-Zubayr (Ahmed Godane) in a drone strike by the United States on 1 September 2014, Al-Shabaab promptly selected as his successor Ahmad Umar Abu Ubaidah (a.k.a. Ahmed Diriye; a.k.a. Mahad Omar Abdikarim), whom the Committee designated for targeted sanctions on 24 September 2014. Abu Ubaidah was widely seen to have been a compromise candidate, less autocratic than Godane and more acceptable to relatively moderate elements of Al-Shabaab, allowing him to prevail over more

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[46] Based on testimonies from former senior Ministry officials, the Governor of the Central Bank of Somalia and a Somalia anti-corruption organization.

obvious successors.[47] Abu Ubaidah has continued the trend of decentralizing Al-Shabaab, empowering local leaders and commanders to operate independently, even in the areas of revenue raising and administration.[48]

80. The continuing use of lethal action by Member States has led to the assassination of several of Al-Shabaab's key leaders during the current mandate. Most notable among those are the killings on 29 December 2014 and 31 January 2015 of Abdishakur Tahlil, an Amniyat operative, and Yusuf Dheeq "Ishmaaciil", described in the Monitoring Group's previous report as Al-Shabaab's chief Amniyat in charge of external operations (S/2014/726, footnote 15). The Group has received information that Dheeq's killing was likely based on a mobile phone selector passed on by Somaliland security services.[49] A third high-ranking member of Al-Shabaab, Aden Garar, was killed in a drone strike on 13 March 2015. Garar had been linked to the Westgate shopping mall attack in Nairobi ("Badru Nairobi Operation") on 21 September 2013 and, more recently, a failed terror plot in Addis Ababa in October 2014.[50]

81. However, as noted in the Monitoring Group's previous report, those targeted killings may have resulted in short-term gains but have not degraded or destroyed Al-Shabaab's operational capacity to carry out asymmetric attacks and, increasingly, conventional assaults on military targets. A senior regional intelligence source told the Monitoring Group that the ranks of Al-Shabaab's virtually unknown "middle management" were so numerous and ideologically committed that the group was able to replace assassinated leaders with ease.[50]

82. Al-Shabaab continues to carry out frequent complex attacks within Mogadishu, typically employing a combination of vehicle-borne improvised explosive devices followed by the deployment of suicide gunmen. During the current mandate, Al-Shabaab has displayed a preference for targeting hotels, especially those frequented by Federal Government of Somalia and foreign government officials. The most notable of those hotel attacks include: Jazeera Hotel (26 July 2015);[51] Makka al-Mukarama (27 March 2015); Central Hotel (20 February 2015); and SYL Hotel (22 January 2015). Annex 4.1 examines the targeting of Mogadishu hotels by Al-Shabaab.

83. Al-Shabaab terror operatives, both within and outside Mogadishu, frequently carry out their attacks while disguised in Somali National Army or other government military uniforms. The Group believes the wide availability and low cost of military uniforms, due partly to a lack of oversight of imports, to be an underreported threat to peace and security in Somalia (see annex 7.1).

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[47] For instance, Mahad Mohamed Ali "Karate", the hard-line commander of the Aminyaat, Al-Shabaab's internal security and counter-intelligence unit, was Godane's most likely successor. "Karate" has repeatedly challenged Abu Ubaidah's leadership, openly engaging in skirmishes with the new emir; for instance, on 19 May 2015 forces loyal to Abu Ubaidah clashed with "Karate"'s supporters near Jilib, resulting in the deaths of eight fighters.

[48] Matt Bryden, "The decline and fall of Al-Shabaab? Think again" (Sahan, 2015).

[49] Monitoring Group interview with a senior regional intelligence official, 14 March 2015.

[50] Information provided to the Monitoring Group by a regional intelligence source, 7 August 2015.

[51] During the Jazeera hotel attack, Al-Shabaab employed the largest truck bomb in Somalia since the bombing by the group on 4 October 2011 of a ministerial complex of the Transitional Federal Government in Mogadishu, which killed more than 150 Somali students.

84. The Federal Government of Somalia continues to point to defections of Al-Shabaab members as evidence of the group's diminishing appeal and capabilities, in particular the high-level defection in January 2015 of Zakariye Ahmed Ismail Hersi, Al-Shabaab's putative head of military intelligence. The value of actionable intelligence obtained from his debriefing is doubtful, however. The Group believes that Hersi was sidelined within Al-Shabaab for a year prior to his defection, and a senior Federal Government of Somalia intelligence official told the Group that Hersi had provided only "outdated" and "background" information.[52]

85. The Group has closely followed the prospect of an Al-Shabaab ideological or operational realignment towards the Islamic State in Iraq and the Levant (ISIL). Indeed, in February 2015 an "emissary" for ISIL, Hamil al-Bushra, publicly invited Abu Ubaidah to declare Al-Shabaab's loyalty to the organization.[53] There is some evidence that Al-Shabaab is beginning to mimic ISIL tactics, perhaps with the aim of competing for the media spotlight. For instance, a video released by Al-Shabaab's media wing in March 2015, depicting individuals being forced into the ocean prior to being gunned down, bears disturbing resemblance to ISIL execution videos.[54] However, the Monitoring Group has not found evidence of operational or financial links between ISIL and Al-Shabaab.

Tactics

86. On 19 July 2015, contingents of AMISOM, as well as Ethiopian National Defence Force, Kenya Defence Forces and Somali National Army troops began the latest phase in their military offensive against Al-Shabaab in Operation Jubba Corridor. The allied forces scored immediate gains, capturing two major remaining Al-Shabaab strongholds, Bardhere and Dinsor. Al-Shabaab did not directly challenge the renewed offensive, preferring, as in the past, to tactically withdraw into the countryside and subsequently cut off supply routes to the reclaimed areas.

87. The Monitoring Group notes with concern that those recaptured areas have been reduced to isolated islands, with the threat of Al-Shabaab ambushes and improvised explosive devices rendering resupply by road highly perilous (see annex 5.1 for an account of humanitarian obstruction by Al-Shabaab). The supply routes also continue to provide revenue to Al-Shabaab, as the group establishes checkpoints to extract "tolls" from passing vehicles.

Attacks on military targets

88. Despite Al-Shabaab's lack of military resistance to Operation Jubba Corridor, the group has demonstrated a marked shift in its tactics, techniques and procedures by resuming full-scale attacks on military targets, from which it has largely abstained since withdrawing from Mogadishu in 2011.

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[52] Monitoring Group interview in Mogadishu, 19 March 2015.

[53] Hamil al-Bushra, "Somalia the land of Khilafah: message to our brothers in Somalia", 24 February 2015. Available from https://somalianews.files.wordpress.com/2015/03/bushra.pdf. See also Caroline Hellyer, "ISIL courts al-Shabab as al-Qaeda ties fade away", *Al Jazeera*, 23 March 2015. Available from www.aljazeera.com/indepth/features/2015/03/isil-eyes-east-africa-foments-division-150322130940108.html.

[54] Jihadology, video entitled "In remembrance 2", posted 24 March 2015. Available from http://jihadology.net/2015/03/24/al-kataib-media-presents-a-new-video-message-from-%E1%B8%A5arakat-al-shabab-al-mujahidin-in-remembrance-2 (accessed 11 September 2015).

89. Al-Shabaab's success in penetrating the heavily fortified Mogadishu International Airport compound on 25 December 2014 had been foreshadowed in the Monitoring Group's previous report (S/2014/726, annex 1.3), which highlighted Al-Shabaab's infiltration of the Mogadishu International Airport. While eight AMISOM soldiers, two civilians and a contractor were killed, casualties could have been considerably higher had the attackers reached their primary target, the officers' mess. The Monitoring Group has obtained evidence showing that a wide range of forged identification badges facilitating access to the Mogadishu International Airport can be purchased at Bakara Market for $20 to $40.

90. On 11 June 2015, more than 100 Al-Shabaab fighters ambushed an Ethiopian National Defence Force convoy escorting civilian contractors to deliver supplies for AMISOM from Mogadishu to Baidoa in the area of Jameeco, 90 km north-west of Mogadishu. Following the Ethiopian National Defence Force ambush, Al-Shabaab announced the existence of a special brigade tasked with attacking AMISOM forces, dubbed the "Sheikh Abu Zubeyr" unit, in honour of its former emir. The Monitoring Group presently considers that unit to be a propaganda-related, rather than operationally active, military unit.

91. On 26 June 2015, following an initial breach of the perimeter by suicide bombers, more than 100 Al-Shabaab fighters overran an AMISOM base in Leego, resulting in the deaths of more than 50 Burundian soldiers. More recently, on 1 September 2015, Al-Shabaab militants carried out a similar assault on an AMISOM base in Janale, on that occasion disabling a bridge before their assault in order to cut off an avenue of retreat.[55] An accurate death toll of AMISOM soldiers has yet to be established, although media sources have reported it to be in the dozens.

Sources of revenue

92. With taxes on charcoal production and movement declining as a source of revenue for Al-Shabaab, the group has become increasingly reliant on other means of raising funds. In particular, the group relies on the taxation (*zakat*) of farms in the Jubba valley, one of the last remaining areas over which it maintains territorial control.[56] Extortion of business owners, whether their businesses are large or small and whether located in areas physically controlled by Al-Shabaab or not, also constitutes a significant component of the group's revenue.[57] Even in Mogadishu, businesses continue to pay "taxes" to Al-Shabaab and not to the Federal Government.[58]

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[55] Feisal Omar and Abdi Sheikh, "Islamist militants attack African Union base in southern Somalia", Reuters, 1 September 2015. Available from www.reuters.com/article/2015/09/01/us-somalia-attack-idUSKCN0R12PT20150901.

[56] A senior Federal Government of Somalia intelligence official told the Monitoring Group on 19 March 2015 that Al-Shabaab raised approximately $9.5 million from taxes on Jubba valley farms in 2014. See annex 6.2.a and strictly confidential annex 6.2.b for more information on violent extortion by Al-Shabaab.

[57] Demands for protection money are frequently made by text message, and the payment in turn is made through mobile money. An independent Somalia analyst based in the United States commented in October 2014 that, in Kismayo, "even women selling tomatoes" pay protection money to Al-Shabaab.

[58] Hormuud Telecommunications is the only major company in Somalia that pays income taxes to the Federal Government of Somalia.

93. The strict tariff regime of the Government of Kenya encourages a vibrant illicit trade in sugar and other basic foodstuffs imported duty-free through the port of Kismayo. From Kismayo, sugar is transported into Kenya through multiple border points, including the Dhobley-Liboi crossing.[59] Al-Shabaab mans checkpoints on all roads out of Kismayo, with passing trucks charged a toll of about $1,000 each.[60] From the Dhobley-Liboi border crossing, much of the sugar passes through the Dadaab refugee camps before making its way to the regional hub of Garissa, then onward to wholesale markets in Nairobi. Once it has entered Kenya, much of the sugar is purchased by local businesses and repackaged under their own brands.

94. In the Monitoring Group's report issued in 2011, it was estimated that Al-Shabaab generated between $400,000 and $800,000 in revenue off the sugar trade (S/2011/433, annex 3.1). According to preliminary investigations conducted in 2015, the Monitoring Group estimates the figure to be substantially higher. As the centrality of revenue stream from charcoal declines, Al-Shabaab's taxation of the illicit sugar trade is gaining relevance. The connection between Al-Shabaab and sugar smuggling came to the fore in Kenya during the Group's current mandate. Following Al-Shabaab's attack at Garissa University College, the Government of Kenya issued a confidential list of 30 individuals who the Government claimed were "engaged in sugar smuggling" and whose accounts had accordingly been frozen (see strictly confidential annex 4.2.e). The Kenyan security forces in turn launched a crackdown on the sugar trade in the Dadaab refugee camps, and the Monitoring Group has become aware of a "sugar unit" created within the Kenya National Intelligence Service for that purpose; in mid-April 2015, the unit arrested six mid-level smugglers in the Dadaab camps.[61] The Monitoring Group is continuing to investigate Al-Shabaab's revenue stream from the sugar trade.

95. The outbreak of the conflict in the Syrian Arab Republic in 2011, as well as improved law enforcement measures along traditional heroin smuggling routes, has prompted East Africa to take on new importance in heroin trafficking from Afghanistan to Europe.[62] The Monitoring Group has become aware of a possible connection between Al-Shabaab and the East Africa drug trade, through the MV *Amin Darya*, a vessel carrying upward of 800 kg of heroin intercepted on 15 July 2014 by Kenyan authorities and subsequently destroyed as a public relations exercise. Through information obtained from a regional security agency, the Monitoring Group has established that the heroin traffickers on board MV *Amin Darya* were in contact with a Dubai-based businessman with possible links to Al-Shabaab. The case of the MV *Amin Darya* is presented in annex 4.4.

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[59] Other border crossing points include Dif and Kolbiyo.

[60] Drazen Jorgic, "Kenya wages war on smugglers who fund Somali militants", Reuters, 21 June 2015. Available from www.reuters.com/article/2015/06/21/us-kenya-security-somalia-insight-idUSKBN0P105320150621. The roughly $1,000 toll was confirmed by the Monitoring Group's interviews on 18 and 19 June 2015 with individuals in Dadaab familiar with sugar smuggling. As with charcoal shipments, truck drivers receive a receipt upon paying an Al-Shabaab toll, which entitles them to pass through additional checkpoints without being subject to double taxation.

[61] Ibid. The arrests of the smugglers were corroborated by the Monitoring Group's interviews with a regional intelligence source and with residents of Dadaab in June 2015. As a result of the Kenyan crackdown, the price of a 50 kg sack of sugar rose to $44, an increase of roughly $10 from normal levels.

[62] "The smack track: East African States are being undermined by heroin smuggling", *The Economist*, 17 January 2015. Available from www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track.

Al-Shabaab Northeast

96. The Monitoring Group continues to follow with concern the Al-Shabaab Northeast insurgency in the Galgala mountains, roughly 30 km south-west of Bosaso, Puntland. In its previous report, the Monitoring Group noted "an increased presence and movement" among Al-Shabaab Northeast militants (S/2014/726, annex 1.4). As Al-Shabaab continues to cede territory in southern and central Somalia, the Monitoring Group expects the intensity of the Galgala insurgency to increase as fleeing militants head north, seeking to keep a line of communication open to Yemen and Al-Qaida in the Arabian Peninsula. Consequently, the Monitoring Group views with extreme concern the progressive deterioration of the security environments in both Yemen and Puntland, which in the latter case has been fuelled partly by continually delayed or absent salary payments to the security forces. In particular, the sacking in February 2015 by the President of Puntland, Abdiweli Mohamed Ali, of two senior security forces officials, including the head of the Puntland Intelligence Service, has created an alarming rift between the President and his security forces.

97. Early in October 2014, Puntland forces launched a renewed offensive in the Galgala hills, supported by aerial reconnaissance from a Western Member State. After initial gains, the offensive appears to have stalled. According to information provided in October 2014 by a Puntland journalist on the ground, government forces controlled only Galgala town and not the villages in the surrounding hills.[63] The Monitoring Group has received unconfirmed but credible information that senior Al-Shabaab leader Fuad Mohamed Khalaf "Shongole" was present in the Galgala area in mid-March 2015 in order to "establish a new base" to carry out attacks in Puntland.[64]

Al-Shabaab as a regional threat

98. During the present mandate, Al-Shabaab has continued to morph into a transnationally oriented terror organization. The group's regional expansion reflects Al-Shabaab's principal regional aim, namely to carry out attacks on the home fronts of AMISOM troop-contributing countries. Kenya, in particular, has proven to be especially vulnerable, owing largely to the long and porous border that it shares with Somalia.[65] Since June 2014, Al-Shabaab terror operations have claimed the lives of more than 300 people in Kenya, greater than the number killed by the group in Mogadishu over the same period.

99. Al-Shabaab has launched a series of deadly attacks on Kenyan soil during the mandate. Within the span of 10 days, the group carried out two deadly attacks near Mandera, massacring 28 bus passengers on 23 November 2013, followed by 36 quarry workers on 2 December. Al-Shabaab's most significant attack in Kenya took place on 2 April 2015, when five gunmen stormed the campus of Garissa University College, located 150 km from the Kenya-Somalia border. After a stand-off lasting most of the day, Kenyan special forces stormed the dormitory where the

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[63] This account was corroborated by a second Puntland journalist, also in October 2014.

[64] Information provided by a senior regional intelligence official, 14 March 2015.

[65] Three broadly independent Al-Shabaab groups operate along the Kenya-Somalia border, roughly corresponding to Garissa, Mandera and Lamu counties in Kenya. The third of those, calling itself the Jeysh Ayman brigade, is based in the Boni forest and has greatly intensified its operations over the course of the Monitoring Group's mandate.

attackers had taken students hostage, but not before 148 people, mostly students, had been killed. In the aftermath of the massacre, the Government of Kenya announced the mastermind of the attack to be Mohamed Mohamud "Gamadheere" (a.k.a. "Kuno"), a Garissa native and former Quranic teacher.[66] "Gamadheere" has emerged not only as a leader responsible for cross-border attacks into Kenya but also possibly as a key organizer in other regional plots involving networks in Somaliland, Djibouti and Ethiopia. For instance, unconfirmed information provided to the Monitoring Group suggests that "Gamadheere" acted as the coordinator of a failed plot in January 2015 to attack Menelik Square in Djibouti, the area of the city containing La Chaumière restaurant, which was the target of a successful Al-Shabaab suicide bombing in May 2014 (see S/2014/726, strictly confidential annex 2.3).

100. An account of the Garissa University College terror attack is provided in annex 4.2.

101. Annex 4.3 (strictly confidential) describes the failed Al-Shabaab plot of January 2015 in Djibouti.

102. In a worrying trend, Al-Shabaab has begun to openly occupy Kenyan border towns for extended periods. On 19 May 2015, Al-Shabaab militants entered two villages in Garissa County, addressing villagers for several hours and warning them not to support the Government of Kenya or Kenyan security services.[67] One week later, militants entered Yumbis village, near the Dadaab refugee camps, and repeated their message not to cooperate with Kenyan forces.[68]

103. Despite the failure of the "Bole Rwanda cell" to launch an attack during the World Cup qualifiers in Addis Ababa in 2013 (see S/2014/726, strictly confidential annex 2.2), Al-Shabaab has continued efforts to strike at the Ethiopian capital. On 14 October 2014, the United States Embassy in Addis Ababa issued a warning of an imminent Al-Shabaab plot targeting the central Bole area of the city. According to information provided to the Monitoring Group, approximately 20 Al-Shabaab operatives had been sent to Addis Ababa in three distinct groups to carry out the plot but left Ethiopia after the warning from the United States; one of the groups was killed attempting to re-enter Kenya.[69]

E. Piracy and kidnap for ransom

Overview

104. Since 2012, piracy in Somalia has declined precipitously. The last hijacking of a high-value merchant vessel, the Greek-managed oil tanker MT *Smyrni*, dates to May 2012. The sharp reduction in piracy since its peak in 2010 has been due primarily to the deployment of private armed security teams on board commercial

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[66] The Monitoring Group is aware of only one substantive connection between "Gamadheere" and the Garissa University attack; according to two regional security sources interviewed by the Group, "Gamadheere" had been in contact by mobile phone with a campus security officer suspected of having carried out surveillance for the attacking team.

[67] Confidential intelligence report, 15 June 2015.

[68] Ibid. Unconfirmed information based on testimony from villagers present suggests that "Gamadheere" may have personally delivered the lecture.

[69] Monitoring Group interview with regional intelligence official, 7 August 2015.

vessels, the implementation of best management practices by the maritime industry and the presence of international naval forces vessels in the region.

105. During the mandate, pirate activity remained at an ebb. The only two vessels to be hijacked since the Group's previous mandate were the Iranian fishing dhows FV *Siraj* and FV *Jaber*, which were seized off the coast of central Somalia on 22 March 2015. The Monitoring Group has ascertained the individual responsible to be Mohamed Osman Mohamed "Gafanje", a well-known pirate leader whose activities have been described in detail in the Group's previous two reports (S/2013/413 and S/2014/726). A detailed account of the hijackings of the FV *Siraj* and the FV *Jaber* is provided in annex 2.4 (strictly confidential).

106. The Group notes with disappointment that the Federal Government of Somalia has yet to arrest and carry out prosecutions against pirate leaders, as the Group has recommended in past reports. In particular, the Group is concerned that "Gafanje" continues to carry out piracy operations with complete impunity, even seeming to enjoy access to high-level Federal Government of Somalia politicians in Mogadishu (see strictly confidential annex 2.4.b).

107. While the threat posed by piracy to merchant vessels remains low, the Group is concerned that illegal fishing by foreign vessels, which frequently deploy private armed security teams on board, may lead to the recreation of a dynamic of conflict with local Somali communities that contributed to the rise of piracy a decade ago. That threat is discussed in detail in the Group's discussion of illegal, unreported and unregulated fishing and maritime security.

III. Obstruction of humanitarian assistance

108. In paragraph 31 of its resolution 2232 (2015), the Security Council reiterated its demand that all parties allow and facilitate full, safe and unhindered access for the timely delivery of aid to persons in need across Somalia. Although the humanitarian footprint was felt in almost all 15 administrative regions of Somalia, the quality of that access remained extremely fragile, particularly as a new anti-Al-Shabaab offensive began in July 2015.[70] More broadly, the increase in the intensity and scale of conflicts in Somalia, whether in terms of the number of actors involved, the means and methods used or the strategies employed, affected all aspects of humanitarian access, from the safety and security of humanitarian workers to the ability to maintain the independence and neutrality of humanitarian action. On 31 August 2015, following the biannual Food Security and Nutrition Assessment for Somalia of the Food and Agriculture Organization of the United Nations, it was announced that the number of people who faced a food crisis or emergency in Somalia had increased by 17 per cent, from 731,000 to 855,000 in six months, two thirds of whom were internally displaced persons.[71]

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[70] See, inter alia, Office for the Coordination of Humanitarian Affairs Somalia office, 2015 Humanitarian Response Plan Somalia midyear monitoring report (covering January to June 2015). See also the latest NGO Safety Programme Somalia access map, 10 February 2015.

[71] Office for the Coordination of Humanitarian Affairs, "Somalia: critical food and nutrition situation persists", press release, 31 August 2015.

A. Denial of humanitarian access[72]

109. The key challenges to humanitarian access identified by the Monitoring Group in its previous report (S/2014/726) continued to impede humanitarian operations on an even larger scale, necessitating more complex negotiation by humanitarian partners. They included blockades on main supply routes and strategic towns by Al-Shabaab, obstructive "regulation" and taxation by federal and regional government officials and the continued politicization of aid.

110. With access to essential supplies perceived as a vehicle for parties to the conflict to assert authority, Al-Shabaab violently enforced blockades on both humanitarian supplies and commercial trade, killing and arresting civilians and destroying goods. Despite efforts to provide emergency humanitarian support by air where possible, acute food insecurity pervaded in many areas.[73] In its own area of authority, Al-Shabaab permitted only minimal humanitarian activities and severely restricted the extent to which the population could seek assistance outside.[74] In the context of the increased militarization and polarization of the environment, there was evidence of Al-Shabaab's deepened suspicion of, and distance from, the humanitarian community. In some areas this was reflected, inter alia, in efforts to sideline local leadership and centralize control of humanitarian relationships through the Amniyat, Al-Shabaab's hard-line internal security apparatus, potentially affecting both the security of humanitarian workers and the ability to negotiate principled access.

111. In its previous report, the Monitoring Group described how the expansion of the federal architecture had created new layers of bureaucratic impediments, revenue seeking and outright diversion. Those impediments had complicated and sometimes completely prevented humanitarian access (S/2014/726, para. 93). During the current mandate, not only did those practices intensify, but the number of authorities with which the humanitarian community was required to engage rose: in addition to two new interim regional administrations, rival administrations outside the formal federalization process attempted to assert administrative legitimacy.[75] Efforts by competing authorities to co-opt and extract benefits from humanitarian operations compromised not only the viability of operations, resulting in the temporary closure of non-governmental organizations (NGOs), but also the ability to work safely across different zones of control.[76]

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[72] Denial of humanitarian access blocks the free passage or timely delivery of humanitarian assistance to persons in need, as well as includes deliberate attacks against humanitarian workers.

[73] More than a year after the Al-Shabaab blockade began in March 2014 in Hudur and at a time when the new phase of the Al-Shabaab offensive was under way, global acute malnutrition rates were "very critical" at 32.7 per cent, with an "alarming threefold increase" in severe acute malnutrition rates since June 2015. Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin, July 2015 (issued on 20 August 2015).

[74] See annex 6.2.a and strictly confidential annex 6.2.b.

[75] In the context of impact on humanitarian access, they included the self-declared Khatumo State in Sool and Sanaag and the Ahl al-Sunna wal-Jama'a-backed administration declared on 1 July 2015 in Dhusamareeb.

[76] During 2014, the humanitarian community recorded 76 incidents related to administrative and bureaucratic impediments and interference in operational modalities. By the end of the first seven months of 2015, the number of incidents had already reached 51. Interviews with United Nations and non-governmental organization sources, Nairobi, August 2015.

112. The growing number of armed actors, both Somali and foreign, engaged in the conflict against Al-Shabaab contributed to the consolidation of a security rather than acceptance and negotiation approach to expanding humanitarian access. This made challenging the politicization of aid and maintaining the principle of distinction more complicated. Incidents of obstruction of humanitarian aid by Somali and international military forces and armed groups were reported.[77]

113. See annex 5.1 for an overview of the main challenges to humanitarian access.

114. See annex 5.2 on the use of bureaucratic impediments and misuse of official power to obstruct humanitarian access.

B. Attacks on humanitarian workers

115. Against the backdrop of a more volatile and insecure context overall, threats against and attacks on humanitarian workers rose during the current mandate. Fourteen humanitarian aid workers were killed between January and August 2015 alone, with 80 security incidents related to humanitarian operations recorded in the same period.[78]

116. Al-Shabaab conducted a series of direct and indirect attacks on United Nations agencies, including a horrific suicide attack on a United Nations Children's Fund staff bus in Garowe that killed six, including four United Nations staff, and injured five others on 20 April 2015.[79] The attack in Garowe marked the culmination of escalating rhetoric by Al-Shabaab against both the United Nations and international organizations.[80] A few months later, Abu Ubaidah's Eid message described the work of "opening up secure corridors to allow the destructive international agencies and organizations to spread their vices and immortality [sic] among the Muslim youth" as "among the plots of the enemies of Allah".[81] Even prior to the Garowe attack, rising internal tensions and accompanying militarization in both Puntland and Somaliland, coupled with the increased presence and activity of Al-Shabaab and

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[77] Although the Somalia Country-Specific Humanitarian Civil-Military Coordination Guidelines for Humanitarian Actors' Engagement with AMISOM to govern relations on civil-military coordination in Somalia were launched in November 2014, dissemination and implementation were slow. There is currently no mechanism for the humanitarian community to promote observance of the Guidelines beyond Federal Government of Somalia security forces and AMISOM.

[78] In contrast, during 2014, 75 violent incidents led to the death of 11 people and the abduction and arrest of more than 20 staff. Information provided by United Nations and non-governmental organization sources in August and September 2015.

[79] They included an attack on a United Nations convoy on 3 December 2014 outside the Mogadishu International Airport and an attack on the Jazeera Palace Hotel, which killed 15, including 2 United Nations third-party contractors, as well as damaged the United Nations common compound and the compounds of three non-governmental organizations.

[80] As noted in document S/2014/726, a series of statements and attacks in 2013 and 2014 had also clearly identified the United Nations (and humanitarian agencies more broadly) as legitimate targets of the group. There is some indication that education activities may be considered a particular target.

[81] Eid greetings to the Muslim Ummah from the Mujahid Sheikh Abu Ubeydah Ahmad Omar. There is some suggestion that Al-Shabaab may be particularly targeting education activities, based on a number of developments, such as the organization's statement of 20 December 2014 referring to "an ideological war", the attack on Garissa University on 2 April 2015 (see annex 4.2) and the attack on the Ministry of Higher Education and Culture in Mogadishu on 14 April 2015.

reports of hostile surveillance of United Nations installations, had led to perceptions of greater insecurity for humanitarian operations in the north-east.[82]

117. In addition to the scaling up of direct military operations in the second half of 2015, the vulnerability of humanitarian agencies was exacerbated by the need to negotiate for access with a rising number of competing military and civilian authorities. Incidents involving the use of force to disrupt humanitarian operations or divert humanitarian inputs were recorded with respect to government forces, forces associated with regional authorities, local militia and international forces.

C. Diversion and misappropriation of humanitarian assistance

118. Diversion continues to be an intrinsic element of the humanitarian business model in Somalia, conducted through a variety of mechanisms, including budget manipulation, extortion, the manufacture of receipts and outright theft. The Monitoring Group observed similar patterns and perpetrators of diversion to that identified in its previous report, involving a spectrum of actors ranging from staff at donor headquarters to local government officials, contractors and local NGOs. Reflecting the trajectory described in that report, the overall amount of humanitarian aid available continued to shrink against the backdrop of an estimated 3 million people still in need of essential humanitarian support in Somalia.[83] The rising costs of humanitarian operations as a result of access restrictions and the need to mitigate heightened security risks all added to the pressure on scarce resources.

119. As noted by the Monitoring Group in its previous report, the emergence of new layers in the architecture of the federal State also multiplied the venues in which, under a cloak of legitimacy, diversion could be practised (S/2014/726, annex 7.1). Those challenges became more acute in 2015 as both new regional State entities and rival administrations emerging out of a highly contested federalization process took cues from successful past revenue-seeking practice, with almost no central oversight or assertion of control (see annex 5.2).

120. At the same time, aid was also vulnerable to not only theft but also misuse as a political tool and in support of conflict. The Group received credible information that some humanitarian actors abused humanitarian principles and misused humanitarian inputs in the pursuit of clan dominance, including through the use of violence. In some communities, the allegiance of certain NGOs with particular militia/Somali National Army units was an open secret in the humanitarian community and indeed accepted as the price of access.

121. The inability of the humanitarian community to grapple with the pervasiveness of aid misappropriation, which reached its high point during the famine of 2011, facilitated the perpetuation of the system. Nevertheless, during the current mandate the humanitarian community sustained the progress noted in 2014 by both continuing to acknowledge the scale of diversion and enhancing risk management and diversion response mechanisms. In January 2015, for example, an NGO focal point was appointed to the Risk Management Unit of the United Nations country

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[82] Challenges in the administration and management of the special protection units may increase the vulnerability of humanitarian actors if not effectively handled.

[83] Of the $853 million requested for the Common Humanitarian Fund in 2015, only 33 per cent had been provided by the end of July 2015.

team, permitting enhanced cooperation between the NGO and the United Nations humanitarian communities. The deep-rooted fundamentals of the system that perpetuate diversion, however, remain to be tackled.

122. See annex 5.3 for a more detailed overview of diversion and misappropriation of humanitarian assistance, including measures to reduce diversion.

IV. Violations of international law involving the targeting of civilians

123. With an increase in the number and variety of foreign and national forces, all armed actors continued to target civilians, whether as a deliberate tactic of war or through the disproportionate use of force.[84] Politically, economically and culturally excluded communities continued to experience the majority of violations, which reflects a deep-rooted stratification of Somali society, accentuated by the rush to assert control over resources.

A. Targeting of civilians

124. The number and complexity of armed actors in Somalia, some allied loosely against Al-Shabaab, produced a profusion of command with varying control and very little accountability, thus undermining the protection of civilians.[85] The almost complete impunity enjoyed by those forces, save in the rare context of inter-clan negotiations or a small number of prosecutions of Somali National Army and AMISOM personnel, created a fertile ground for them to continue.

125. As both the fight against Al-Shabaab and the group's grip on populations still under its control intensified, violations against civilians rose, with both sides using weapons and tactics that resulted in large civilian and military casualties.[86] Meanwhile, other non-State actors used armed violence to assert themselves within the expanding federal architecture. Al-Shabaab used, and in turn was sometimes leveraged by, those actors, for mutual benefit.

126. As described in document S/2014/726, the political and military leadership of the federal system was also usurped to progress clan interests with the deployment of Federal Government of Somalia security forces and assets in clan fighting. Violence against civilians by the forces of the regional administrations, such as the

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[84] Those responsible involved members of all parties to the conflicts, including Al-Shabaab and its affiliates, AMISOM and its strategic partners, the Somali National Army, the security forces of the regional administrations and their allies, and clan militia.

[85] Analysis produced by the Armed Conflict Location and Event Data Project for the Monitoring Group between January and July 2015, for example, indicates that the main perpetrators of anti-civilian violence were "unidentified armed groups". (The assessment does not capture events in which civilians are injured as a result of conflict between two armed actors.) Draft conflict analysis of Somalia, Armed Conflict Location and Event Data Project, August 2015.

[86] Although the absolute level of violent events against civilians declined in the first six months of 2015, following the commencement of a new anti-Al-Shabaab offensive, the month of July witnessed a 50 per cent increase. Al-Shabaab was responsible for the greatest number of fatalities caused by anti-civilian violence. Ibid.

Interim Jubba Administration, in addition to other entities, such as Ahl al-Sunna wal-Jama'a, in attempting to assert control over territory was also documented.[87]

127. International forces both within and beyond the authorized AMISOM troop number also committed violence against civilians. With respect to AMISOM, extrajudicial killings and killing of and injury to civilians in the context of response to improvised explosive device and grenade attacks were reported.[88] Allegations of killing, sexual and gender-based violence and other violations against civilians by the Ethiopian Liyiu police were also received by the Group, in particular in Bay, Bakol, Galgadud and Hiran.

128. See annex 6.1 for an overview of the commission of violations of international law involving the targeting of civilians.

129. See annex 6.1.a (strictly confidential) for information on the circumstances of the arrest of members of the Salaax militia.

130. See annex 6.2.a and strictly confidential annex 6.2.b for details of violations of international law and the situation of the Bantu/Wagosha community in areas of Lower and Middle Jubba held by Al-Shabaab.

131. See annex 6.3.a and strictly confidential annex 6.3.b for details on attacks on the villages of Kabxanley and Defow in Hiran.

B. Sexual and gender-based violence, recruitment and use of children in armed conflict and forced displacement

132. Annex 6.4 contains short summaries of the main trends in the commission of violations relating to these three areas of the mandate, in addition to addressing developments in both practice and the legal framework that tend to prevent violations and enhance compliance with the sanctions regime.

V. Arms embargo regime

A. Compliance by the Federal Government of Somalia with the conditions of the partial lifting of the arms embargo

133. The partial lifting of the arms embargo on Somalia, introduced in resolution 2093 (2013), was extended in resolution 2182 (2014) until 30 October 2015. It exempted the Federal Government of Somalia from seeking case-by-case approval from the Committee to import weapons for its security force. Under the terms of the partial lifting of the arms embargo, the Federal Government of Somalia is required to submit to the Committee advance notifications of the delivery of weapons or

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[87] In February 2015, for example, civilians were killed and injured when Ahl al-Sunna wal-Jama'a attacked and assumed control of Guriel from the Federal Government of Somalia. See, inter alia, Human Rights Watch, "Dispatches: overlooking the cost to Somalia's civilians", 19 February 2015. Available from www.hrw.org/news/2015/02/19/dispatches-overlooking-cost-somalias-civilians.

[88] According to the Armed Conflict Location and Event Data Project, although AMISOM was reportedly involved in only 10 incidents of anti-civilian violence, the ratio of reported fatalities to events was the highest of all forces. Draft conflict analysis of Somalia, Armed Conflict Location and Event Data Project, August 2015.

military equipment or the provision of advice, assistance or training to government security forces. In addition, the Federal Government of Somalia is obliged to submit biannual reports to the Security Council detailing the structure of its security forces and the infrastructure and procedures in place to ensure safe management and distribution of weapons and military equipment. The Council has repeatedly stressed that continuation of the partial lifting is contingent on the Government's implementation of those requirements (resolution 2182 (2014), sixteenth preambular paragraph).

134. The Monitoring Group observed tangible progress with regard to the submission of notifications and weapons and ammunition management due considerably to the efforts and energy of the Office of the National Security Adviser. The quality, quantity and timeliness of advance notifications improved steadily. Fulfilment of post-delivery confirmation obligations, however, remained elusive.[89] The commencement of the marking and registration of Federal Government of Somalia imports and of weapons held by private security companies represented the most significant development. Significant gaps remain, however, in ensuring tracking of weaponry and equipment, particularly after their initial distribution to the security forces. In this regard, international assistance is greatly needed to initiate the comprehensive weapons and ammunition management project developed by the Federal Government of Somalia.

135. Reports of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2182 (2014) were transmitted on time. However, the Group is concerned that, despite the efforts to outline the security structure of the Federal Government of Somalia in its previous report, the Government has not provided a clear picture of the composition and strength of security forces, including allied militia. In particular, the Somali National Army leadership has systematically sought to inflate the number of serving troops.[90]

136. The partial lifting of the arms embargo was granted, inter alia, to help the Federal Government of Somalia to develop and equip its security forces to confront Al-Shabaab. Data collected from advance notifications to the Committee indicates that Government security forces were expected to have received more than 17,500 weapons and almost 9 million rounds of ammunition since the partial lifting of the arms embargo.[91] The Monitoring Group, however, continues to receive reports that Federal Government of Somalia security forces remain ill-equipped to confront Al-Shabaab effectively. The lack of information on the distribution of imported weapons limits the Group's ability to assess whether they are being used appropriately and effectively.

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[89] The Federal Government of Somalia has advised that the additional required post-delivery confirmations and information, albeit not submitted on time, will be transmitted to the Committee shortly after the finalization of the present report.

[90] See strictly confidential annex 3.1.

[91] That figure does not include the considerable number of weapons already held in Federal Government of Somalia stock, circulating in Somalia or delivered outside the formal notification procedure. Possession of a weapon, for example, is often a condition for recruitment to the security services.

B. Obligations of Member States and regional and international organizations

137. On a number of occasions, Member States and international organizations providing support to security sector institutions not under the Federal Government of Somalia have failed to appropriately notify the Committee of supplies of weapons or military equipment and technical assistance or training pursuant to paragraph 11 (a) of resolution 2111 (2013). In some instances, this can be attributed to confusion regarding the scope of paragraph 11 (a), including to which security actors and in respect of which materiel and assistance it applies. The development of parallel regional security structures outside the command of the Federal Government of Somalia requires careful consideration and greater Committee oversight, and a more precise understanding of the scope of "Somali security sector institutions" will need to evolve.[92]

C. Standing exemptions from the arms embargo

138. The Security Council granted several standing exemptions from the arms embargo that apply to the supply of certain materiel to specific entities and for particular purposes.[93] Although that system enables the smooth operation of AMISOM, the European Union Training Mission in Somalia, the United Nations Assistance Mission in Somalia (UNSOM), AMISOM "strategic partners" and others, it also creates a blind spot in the Committee's oversight of arms flows. Indications that some of the armed forces involved in the most recent anti-Al-Shabaab offensive did not operate fully under the AMISOM concept of operations heightens that concern.

D. Documentation of captured weaponry and military equipment

139. Pursuant to paragraph 6 of Security Council resolution 2182 (2014), Federal Government of Somalia security forces and AMISOM are required to document and register all military equipment captured during offensive operations and to facilitate inspection by the Group before its redistribution or destruction. The Federal Government of Somalia provided the Group with information on four caches of weapons and other military materiel seized and received training in the identification and tracking of captured weaponry. Despite the issuance of directives to sector commanders, AMISOM was unable to document and facilitate the transfer of information on seizures and has requested further advice and assistance from the Group. Effective implementation of paragraph 6 of the resolution will require the Federal Government of Somalia and AMISOM to agree on various responsibilities.[94] Troop-contributing countries should direct their AMISOM contingents to comply with directives issued by force headquarters. The Council could consider expanding

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[92] See paragraph 10 (h) of the guidelines of the Committee for the conduct of its work as consolidated, revised and adopted by the Committee on 30 March 2010, 30 May 2013, 27 November 2013 and 25 March 2014.

[93] For details, see annex 7.2.

[94] This includes the documentation, registration, tracing and analysis of captured weapons and other materiel as appropriate, a transfer procedure to the responsible entity, a framework for the storage and disposal of the materiel retained or transferred, and a protocol for informing the Monitoring Group of the seizure.

such reporting to the variety of other forces engaged in the conflict with Al-Shabaab in territories beyond the reach of AMISOM and Federal Government of Somalia security forces.

E. Implementation of paragraphs 10 and 15 of resolution 2182 (2014)

140. In paragraph 10 of resolution 2182 (2014), the Council requested the Federal Government of Somalia and the Monitoring Group to work together to formulate a proposal to provide for an exemption to the arms embargo for weapons on board vessels engaged in commercial activity in Somali territorial waters and Somali ports. During the mandate, the Federal Government of Somalia and the Group shared preliminary views on the proposal and made submissions to the Council.

141. In paragraph 15 of resolution 2182 (2014), the Council authorized Member States, under certain circumstances, to interdict vessels believed to be carrying weapons and military equipment in Somali territorial waters and on the high seas. The Monitoring Group was not informed of any arms-related interdictions during the mandate.

F. Violations of the arms embargo

142. Violations of the arms embargo continue to be committed in Somalia, whether through the illegal sale or unauthorized distribution of weapons from Federal Government of Somalia stocks or through illegal imports. The environment for illegal weapons flows has been exacerbated by the market created by the conflict in Yemen and increased militarization in parts of Somalia over the course of the mandate.

143. Annex 7.1 provides an overview of developments relating to weapons and ammunition management in Somalia, including as a condition of the partial lifting of the arms embargo.

144. Annex 7.2 provides an assessment of compliance with notification obligations by the Federal Government of Somalia, Member States and international organizations under the arms embargo and the partial lifting thereof.

145. Annex 7.3 provides an analysis of compliance by the Federal Government of Somalia with its reporting requirements under the partial lifting of the arms embargo.

146. Annex 7.4 details compliance by the Federal Government of Somalia and AMISOM with obligations relating to captured weaponry and military equipment.

147. Annex 7.5 provides an assessment of the implementation of paragraphs 10 and 15 of resolution 2182 (2014).

148. Annex 7.6 provides details on international assistance to the Federal Government of Somalia to enhance compliance.

VI. Violations of the ban on charcoal

149. During its mandate, the Monitoring Group has documented the continuing export of charcoal from southern Somalia. The implementation of the ban, the displacement of Al-Shabaab from export sites along the southern coast of Somalia

from Barawe to Kamboni on the Kenyan border and the emergence of new political and business arrangements in the region have all affected the political economy of the trade. The cumulative effect has been an overall reduction in exports of charcoal from southern Somalia and a decline in the revenue gained from the trade by Al-Shabaab.

A. Production and export of charcoal in southern Somalia

150. In the immediate aftermath of the recovery of Barawe, Lower Shabelle, from Al-Shabaab early in October 2014, members of the caretaker administration, together with the Somali National Army and the Uganda People's Defence Force contingent of AMISOM, permitted the commencement of exports of charcoal stockpiled in the city. Satellite imagery taken at the time shows the rapid depletion of stocks and the presence of multiple dhows docked and awaiting cargo until late November, when activity ceased.[95] On 23 November, local government and security officials were arrested and taken to Mogadishu. Since late November, evidence collected by the Group, including regularly updated satellite imagery and aerial surveillance of the city's port and stockpiles, suggests that charcoal trade in Barawe and the surrounding area has stopped.

151. Production continues in the Lower and Middle Jubba regions, with the former largely under the authority of the Interim Jubba Administration and the latter remaining largely under the control of Al-Shabaab. Although the actors controlling the trade and export in Kismayo remain largely unchanged since the Group's previous report (see S/2014/726, annex 9.1), export procedures have changed. The city's central stockpile, situated adjacent to the road leading from the airport to the centre of the city and in clear view of all visiting delegations to the city, is no longer used. Satellite imagery suggests increasing use of the city's southern stockpile and dwindling use of its northern stockpile.[96] Charcoal is now rarely loaded onto vessels at Kismayo port but instead loaded by hand at Alanley beach into small fishing boats and then unloaded onto awaiting larger dhows in the bay area.[97] The process is significantly less efficient but can be disrupted with immediate effect, leaving less evidence of the trade. Satellite imagery suggests a significant expansion of export operations from the town of Buur Gaabo, approximately 125 km south-west of Kismayo, early in 2015, with considerable stockpiles and indeed cargo dhows still present in September 2015. The Monitoring Group has not yet been able to confirm who controls the trade and export in Buur Gaabo.

152. Al-Shabaab's overall role in and revenue from the charcoal trade has reduced since its loss of all export sites.[98] Businesses previously reported to have played a prominent role in the export of charcoal and maintained ties with Al-Shabaab, including Ali Naaji and Hassan Mohamed Yusuf "Awlibaax" (see S/2014/726, paras. 141-143), are reported to have maintained their dominance in the trade over the course of the mandate. Evidence collected by the Monitoring Group, however,

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[95] See annex 8.1 for satellite imagery of Barawe.

[96] See annex 8.1 for satellite imagery of Kismayo.

[97] See annex 8.2 for a map demonstrating loading procedures in Kismayo.

[98] Al-Shabaab's last foothold on the southern coastline in Kuday, approximately 100 km south-west of Kismayo, was recovered by AMISOM troops in March 2015, after which all charcoal-related activity is believed to have ceased.

suggests that the ties between those controlling the trade in Kismayo and elements of Al-Shabaab in Lower and Middle Jubba have been strained over the past year. In January 2015, senior Al-Shabaab officials are reported to have called for the closure of charcoal production sites in Lower and Middle Jubba. In the following months, charcoal producers were arrested by the group, and many of those found carrying charcoal along the major supply routes were executed and their vehicles burned along with their cargo. During that period, suppliers were forced to use smaller minibus-type vehicles and back roads to avoid detection by Al-Shabaab on the major supply routes. Unconfirmed reports indicate that an agreement on the distribution of taxation collected from charcoal at the export sites fell apart when Ahmed "Madobe" withheld Al-Shabaab's shares of export proceeds early in 2015 in preparation for the formation of the Jubba Regional Assembly in April and May 2015. The withholding of funds due to Al-Shabaab prompted the blockade on charcoal to the city, which may also partly explain the significant expansion of operations in Buur Gaabo.[99]

153. While the Monitoring Group has received some support from the Federal Government of Somalia in its investigations into the charcoal trade in southern Somalia, no apparent efforts have been made by either the Interim Jubba Administration or local contingents of AMISOM to implement or report on the ban, supporting the Group's assertion that both continue to be actively engaged in and profiting from the trade.

B. Maritime interdiction and vessel tracking

154. On 7 May 2014, the Committee issued implementation assistance notice No. 1, which contained recommendations on interdiction of charcoal from Somalia pursuant to Security Council resolutions 2036 (2012), 2060 (2012) and 2111 (2013). In paragraph 15 of its resolution 2182 (2014), the Council authorized, for a period of 12 months, Member States, acting nationally or through voluntary multinational naval partnerships, to inspect vessels that they had reasonable grounds to believe were carrying charcoal from Somalia in violation of the ban. Uptake of action in line with the proposed interdiction of vessels believed to carry charcoal was slow but has, over the course of the mandate, resulted in a perceptible deterrent effect in the absence of any successful land-based approaches to the implementation of the ban on charcoal. Intelligence shared by the Combined Maritime Forces with the Monitoring Group led to the successful interception of the MSV *Raj Milan* (MMSI 419956307) at Port Rashid in Dubai, United Arab Emirates, with support from United Arab Emirates authorities.[100] The issue of the disposal of seized charcoal, the absence of legal follow-through, and the difficulties in identifying a State willing to accept diverted ships have, however, hampered initial efforts to operationalize maritime interdiction. Minimizing the interaction between the naval forces and the

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[99] Obtaining reliable evidence on Al-Shabaab's engagement in the charcoal trade in southern Somalia has grown increasingly challenging over the course of the mandate. With limited access to Kismayo and no access to the surrounding region, the Monitoring Group was largely reliant on collecting testimonies from various local sources. Contrasting and conflicting reports provided by local sources, often assumed to be either biased or politically motivated, made verification of facts mostly untenable. The account of Al-Shabaab's taxation ties to the Interim Jubba Administration and continuing relations with the local business elite is based on multiple corroborated testimonies.

[100] See annex 8.3 for details on the interception of the MSV *Raj Milan*.

vessels carrying charcoal remains critical for an effective implementation of the charcoal ban.

155. The monitoring of vessels believed or known to be carrying charcoal has been complicated by growing efforts to avoid detection. Decreasing use of automatic identification system transmitters by the dhows carrying cargo to and from southern Somalia renders it impossible to monitor the movements of most vessels using dedicated tracking software.[101] The inability of both local sources on land and intelligence sources at sea to identify vessel names suggests systematic attempts to mask physical identifying features as well. Without that information, it is not possible to intercept vessels known to be carrying charcoal from Somalia when they reach their port of unloading.

C. Falsified documentation

156. Upon arrival at Port Rashid, the MSV *Raj Milan* was found to be in possession of documentation suggesting that its cargo had originated from the Comoros. The prevalent use of falsified documents for charcoal cargo was detailed in the Monitoring Group's previous report (see S/2014/726, annex 9.4). With the growing challenges to identifying vessels both on land and at sea and tracking vessels by means of automatic identification system transmissions, during the current mandate the Monitoring Group sought to verify the extent of falsified documentation by cross-referencing Member State import and export data.[102]

157. According to data shared by the Ministry of Foreign Affairs of the United Arab Emirates, more than 142 million kg of charcoal were imported from Somalia in 2011 (96 per cent of total imports) and almost 122 million kg (79 per cent of total imports) the following year, when the ban was imposed.[103] In 2013 and 2014 the data show that no charcoal was imported from Somalia.

158. According to the same data, imports of charcoal from Kenya rose from 175,000 kg in 2012 to more than 80 million kg in 2013 and 12 million kg in 2014.

159. Imports of charcoal from the Comoros rose from zero in 2011, 2012 and 2013 to more than 12 million kg in 2014. The Monitoring Group requested confirmation of exports from the Comoros to the United Arab Emirates but did not receive a response.

160. Imports of charcoal from Djibouti rose from zero in 2011 to almost 13 million kg in 2012, more than 22 million kg in 2013 and almost 41 million kg in 2014. The Monitoring Group met with Djibouti port authorities on 21 May 2014 and was informed categorically that charcoal was not exported from Djibouti to any country.

161. As identifying and tracking vessels transporting Somali charcoal grows increasingly difficult, cooperation with Member States grows increasingly imperative. The apparent endemic use of falsified documentation can be addressed only with support from Member States, which will enable cross-referencing of export and

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[101] The Monitoring Group noted the presence of multiple actively trading dhows docked at ports in Dubai that had not transmitted automatic identification system signals since 2014.

[102] Since 2014, the Monitoring Group has confirmed falsified documentation claiming imports of charcoal of Somali origin from the Comoros, Djibouti and Kenya.

[103] The ban came into effect with the adoption by the Council of resolution 2036 (2012) on 22 February 2012.

import data and permit the Monitoring Group to investigate significant discrepancies and the individuals and entities responsible for them.

VII. State and non-State cooperation with the Monitoring Group

162. In the course of its mandate, the Monitoring Group received encouraging support from the Federal Government of Somalia and representatives of its institutions. The Group held regular and open discussions on a number of sensitive issues with its two focal points, the National Security Adviser to the President of Somalia, Abdirahman Sheik Issa, and the Minister of Finance, Mohamed Aden Ibrahim. The Minister of the Interior and Federal Affairs, Abdirahman Mohamed Hussein "Odowaa", and the Central Bank Governor, Bashir Issa, also supported investigations providing the Group with substantive and detailed responses to its requests for information.

163. In its investigations with regard to the Al-Shabaab threat, the Group received limited cooperation from the Government of Kenya and its security services. The Monitoring Group hopes to strengthen these relations in its next mandate.

164. The Monitoring Group has limited interaction with the Somaliland authorities. Contacts were established with the Director of Intelligence in the light of investigations related to the Al-Shabaab threat. The Somaliland Ministry of Foreign Affairs requested the Group's cooperation and had e-mail exchanges with the Group on the creation of an oil protection unit.

165. United Arab Emirates authorities responded to official correspondence on a regular basis and facilitated the inspection of the MSV *Raj Milan* in Port Rashid. However, repeated requests for import documentation, required to investigate the extent of false documentation used in the charcoal trade, were ignored. The conclusions and findings from the official investigation of United Arab Emirates authorities into the MSV *Raj Milan* and its consignee have yet to be shared with the Group.

166. The authorities of Bahrain, Egypt, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia and the United Republic of Tanzania have not responded to the Group's official request for data on the importation of charcoal into their respective territories, making it difficult for the Group to assess the import/export volumes of charcoal transiting from Somalia to their countries and to identify patterns that vessels carrying illegal Somali charcoal take advantage of to avoid identification and tracking.

167. Following a visit to Muscat, the Omani authorities confirmed the continuation of the blockade of the import of Somali charcoal into ports under its jurisdiction yet have not responded to the Group's official correspondence and did not provide the Group with customs documentation as agreed upon during the visit.

168. During its mandate, the Monitoring Group benefited from positive cooperation with humanitarian agencies and United Nations entities, within the boundaries of their obligations of confidentiality to victims and the need to maintain the safety and security of interlocutors.

VIII. Sanctions list

169. On 11 December 2014, the Permanent Representative of Somalia to the United Nations submitted a request to delist Mohamed Sa'id (also known as Atom), who had been listed on 12 April 2010 for engaging in acts that threaten the peace, security or stability of Somalia. He had announced on 7 June 2014 that he was leaving Al-Shabaab in an effort to escape Godane's control over the group and had surrendered to the Federal Government in Mogadishu. On 19 December 2014, the Committee approved the delisting of Mohamed Sa'id "Atom" from the sanctions list.

170. Pursuant to paragraph 27 of resolution 2111 (2013) and paragraph 13 (g) of resolution 2060 (2012), the Monitoring Group continues to refine and update information on the draft list of those individuals and entities that engage in acts described in paragraph 1 of resolution 2111 (2013).

IX. Recommendations

A. Threats to peace and security

171. The Monitoring Group recommends:

(a) That the Security Council consider for targeted measures all individuals attempting to exploit political, financial or military resources to manipulate or undermine the federalization process and/or the forthcoming electoral process in 2016 for self-gain, along with their facilitators and active supporters;

(b) That, with regard to Somali public resources, the Security Council urge the Federal Government of Somalia:

(i) To investigate and undertake prosecutions, where appropriate, of individuals and entities found to have been engaged in the misappropriation of financial resources in violation of the sanctions regime, where that conduct also constitutes a violation of applicable national laws;

(ii) To share information generated by enquiries with the appropriate investigative bodies in other Member States, where there are reasonable grounds to believe that nationals of those States (or persons or entities with sufficient connection to those jurisdictions) have participated in the misappropriation of financial resources in Somalia;

(c) That the Security Council, in its next resolution on the Somalia sanctions regime, recognize illegal, unreported and unregulated fishing by foreign vessels within the country's exclusive economic zone as a threat to peace and security in Somalia and include such acts in the listing criteria for targeted measures;

(d) That the Security Council consider encouraging the Federal Government of Somalia to strengthen its financial institutions by:

(i) Enhancing the regulatory role of the Central Bank of Somalia;

(ii) Urging the Federal Parliament to expedite the legislative process regarding the Public Procurement, Concession and Disposal Act;

(e) That the Security Council, in its next resolution on Somalia, impose a moratorium on oil and gas agreements in Somalia until the Federal Government of Somalia creates viable and independent licensing bodies, as stipulated in the 2008 Petroleum Law, and a constitutional resource-sharing framework between the federal and regional authorities is in place;

(f) That the Security Council urge Member States to support the comprehensive programme of security sector reform announced by the Office of the President of the Federal Government of Somalia on 9 September 2015, ensuring prompt delivery of financial and technical assistance to the security sector on the basis of strict adherence to the commitments undertaken in the announcement.

B. Piracy

172. The Monitoring Group recommends that the Security Council continue to encourage the Federal Government of Somalia to identify, arrest and prosecute all individuals who, for the past decade, have been involved in organizing and facilitating acts of piracy.

C. Arms embargo regime

173. The Monitoring Group recommends:

(a) That the Security Council, in the context of its assessment of compliance by the Federal Government of Somalia with the terms of the partial lifting of the arms embargo:

(i) Urge the Federal Government of Somalia to improve compliance with its reporting obligations to the Council, in particular the provision of full and accurate information on the structure, composition, strength and disposition of its security forces, including the status of regional and militia forces;

(ii) Request the Federal Government of Somalia, in the context of its compliance with notification obligations to the Committee relating to import of arms and ammunition, to improve the timeliness and content of post-delivery and post-distribution confirmations to the Committee, recalling that such communications may be submitted jointly if all relevant information is available;

(iii) Require the Federal Government of Somalia, with the support of international partners and within a fixed time frame, to conduct a baseline inventory of military equipment, arms and ammunition in the possession of the Federal Government of Somalia security forces, assessed against their respective strength, needs and missions, in order to assist Member States in providing more targeted assistance under the partial lifting of the arms embargo, building on the development of the Guulwade and draft Heegan plans, welcomed by the Council in its resolution 2232 (2015);

(iv) Request Member States on an immediate basis to support efforts of the Federal Government of Somalia to establish a joint verification team, as previously requested by the Council;

(b) That the Security Council request Member States to assist the Federal Government of Somalia in improving the management and monitoring of weapons and ammunition flows to authorized personnel, including through urgent support for the development of a comprehensive weapons and ammunition management strategy building on current practices and initiatives and setting out realistic short-term priorities, including drawing on the extensive biometric registration of forces being conducted by the United Nations and the weapons card system already in use;

(c) That the Security Council, in its next resolution on the Somalia sanctions regime, urge Member States and international, regional and subregional organizations to ensure that they are in full compliance with paragraph 11 (a) of resolution 2111 (2013) when considering the provision of weapons, military equipment or technical assistance or training intended solely for the purposes of helping to develop Somali security sector institutions other than the security forces of the Federal Government;

(d) That the Security Council, in its next resolution on the Somalia sanctions regime, emphasize the need for AMISOM and the Somali National Army to fully comply with their obligations under paragraph 6 of resolution 2182 (2014) and that it consider extending those obligations to all authorities in Somalia, in order to ensure the comprehensive, transparent management and disposal of such materiel and to facilitate tracing and analysis, which exposes Al-Shabaab operations and supply channels;

(e) That the Security Council renew the authorization set out in paragraph 15 of resolution 2182 (2014) and request the Committee to issue an implementation assistance notice that provides guidance to Member States on the framework for conducting maritime interdiction of weapons and other materiel prohibited by the arms embargo;

(f) That the Security Council, in the context of effective monitoring of compliance with paragraph 10 (c) of resolution 2111 (2013) by the Monitoring Group, request AMISOM and its strategic partners to clarify respective roles, responsibilities and lines of command with respect to operations conducted under the African Union strategic concept in cooperation and coordination with AMISOM.

D. Obstruction of humanitarian assistance

174. The Monitoring Group recommends:

(a) That the Security Council request AMISOM and the humanitarian community to continue to prioritize the full implementation of the Somalia Country-Specific Humanitarian Civil-Military Coordination Guidelines, including extending the dissemination of their principles to other armed actors operating in Somalia;

(b) That the Security Council urge the Federal Government of Somalia, AMISOM and its strategic partners, and all other armed actors operating in Somalia to take steps to mitigate the impact on civilians of military operations, including creating an enabling environment for humanitarian actors to deliver and ensuring freedom of movement along supply routes;

(c) That the Security Council, in its next resolution on Somalia, remind all parties to the conflicts and all governing authorities in Somalia that the neutrality, impartiality and independence of humanitarian action must be respected and ensured, including as a critical element of safeguarding the safety and security of humanitarian personnel and operations, and, in this regard, that donors be encouraged to increase the allocation of funds for principled humanitarian assistance, detached from stabilization or State-building agendas.

E. Violations of international humanitarian law involving the targeting of civilians

175. The Monitoring Group recommends:

(a) That the Security Council request the Federal Government of Somalia to both enhance and seek support for capacity to build civilian oversight of the Federal Government of Somalia security forces, in addition to prioritizing the investigation and prosecution of senior political and military leaders with command responsibility for violations of international humanitarian law;

(b) That the Security Council request Member States to support enhanced capacity for the UNSOM human rights section, in particular an increase in its regional presence and ability to perform its responsibilities under the United Nations human rights due diligence policy on United Nations support to non-United Nations security forces with regard to, inter alia, conducting risk assessments and monitoring compliance as the number of forces receiving support and assistance from United Nations entities expands;

(c) That the Security Council request the Office of the United Nations High Commissioner for Human Rights to work with the Federal Government of Somalia and relevant United Nations agencies in mapping the most serious violations of applicable international law committed by all parties to the conflicts in Somalia, a necessary precursor to developing options for an appropriate and comprehensive transitional justice strategy;

(d) That the Security Council, in its next resolution on Somalia, emphasize the obligation of all Member States to ensure that their forces adhere strictly to international law in all operations conducted in Somalia, whether within or outside the AMISOM concept of operations, including investigating and prosecuting personnel who commit grave breaches of international humanitarian law;

(e) That the Security Council urgently request the Federal Government of Somalia to implement national laws and policies relating to forced evictions, including undertaking investigations and prosecutions of those who violate the law in the course of such operations;

(f) That the Security Council request the African Union, AMISOM and countries that contribute troops to AMISOM to:

(i) Encourage cooperation and engagement by all parties, in particular troop contingents, with the recently established AMISOM Civilian Casualty Tracking, Analysis and Response Cell, in order to ensure that the data and analysis generated are integrated swiftly into operations and contribute to a decrease in civilian casualties and injuries; consideration should also be given to the establishment of a common fund to support compensation for civilian casualties of AMISOM through the Cell;

(ii) Ensure regular and transparent provision of detailed information by troop-contributing countries on measures taken at the national level to investigate, prosecute and punish military and civilian personnel responsible for the commission of violations against civilians in the course of their deployment;

(iii) Immediately implement the recommendations of the African Union independent investigation team established to investigate allegations of sexual exploitation and abuse by AMISOM personnel.

F. Violations of the ban on charcoal

176. The Monitoring Group recommends:

(a) That the Security Council request Member States to take action in accordance with their national laws against shipping companies identified by the Monitoring Group as using false documentation and to provide the Monitoring Group, on a quarterly basis, with documentation related to import and export of charcoal;

(b) That the Security Council, in its next resolution on Somalia, and in furtherance of compliance with paragraphs 18 and 20 of resolution 2111 (2013), request AMISOM and countries that contribute troops to AMISOM to take active steps to support and assist the Somali authorities in preventing the export of charcoal and, in this regard, to report to the Council on such actions six months from the adoption of the new resolution;

(c) That the Security Council consider explicitly encouraging and authorizing Member States to reroute vessels carrying Somali charcoal to the Mogadishu port.

G. Sanctions list

177. The Monitoring Group recommends that the Committee proceed without delay to designate for targeted measures:

(a) Known pirates and their associates identified by the Monitoring Group or Member States between 2009 and 2015;

(b) Individuals and entities responsible for the misappropriation of public resources, including individuals and entities in the private sector;

(c) Individuals involved in the diversion of weapons from official government stockpiles;

(d) Individuals and entities, including importers, exporters and transporters, involved in the trading of Somali charcoal.

Annex 1

Spoiler politics and the capture of state resources

Annex 1.1: Formation of Interim Galmudug Administration

1. The formation of the Interim Galmudug Administration (IGA) started in earnest with the Galgadud and Mudug Reconciliation Conference in January 2015. It concluded with the appointment of Abdikarim Hussein Guled as President in July and the formation of a 24-member cabinet in late August. As with the establishment the Interim Jubba Administration and the Interim South West State Administration, losers in the process have cried foul and multiple allegations of interference have emerged. The formation of the IGA demonstrates the manner in which multiple political and clan networks competed to capture state resources, and in doing so instigated both new conflict and threatened the re-emergence of old conflict. In 2016, the political stakes will be higher, as will the overall threat posed to peace, security and stability in Somalia if greater efforts are not made by all stakeholders to engage in the next transition process constructively.[1]

Attempts to manipulate the state formation process

2. The *Damul Jadid* political association close to President Hassan Sheikh Mohamud invested heavily – financially and politically – in the appointment of its member, Abdikarim Hussein Guled, as President of the IGA.[2] Indeed, other political associations and networks, including *Ala Sheikh*, are also known to have attempted to buy support for their appointees throughout the state formation process – from the allegiance of members of the technical committee to voting preferences of the 68 members of the Regional Assembly.[3] None, however, had the comparative advantage that Abdikarim Guled received from the outset.

3. The process of state formation between Galgadud Region and parts of Mudug Region was initiated in July 2014. Representatives of the former Regional State of Galmudug, the Administration of Himan and Heeb, and the Administration of Ahlu Sunna wal Jama'a (ASWJ) were invited to attend a meeting with representatives of the Federal Government of Somalia (FGS). On 31 July the Central Regions State Formation Agreement was signed by Abdi Hassan Awale "Qebdiid" (President of Galmudug State), Sheikh Ibraham Sheikh Hassan Gureye (representing ASWJ) and four FGS ministerial representatives from the region. Minister of Interior Affairs and Federalism Abdullahi Godah Barre served as Guarantor for the Agreement, and representatives of the European Union, the United Nations Office for Somalia (UNSOM), and the African Union served as witnesses. Abdullahi Mohamed Ali "Barleh" of the Himan and Heeb administration signed the Agreement a week later on 6 August 2014.[4]

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[1] Due to the sensitivity of the matter, all sources will remain anonymous.

[2] Information obtained independently from senior diplomatic sources and from participants of the conference.

[3] According to a source present at the technical committee training workshop, *Ala Sheikh* representatives offered cash payments to technical committee members to support their preferred candidate, Ahmed Moallim Fiqi.

[4] According to a confidential source, "Barleh" agreed to sign once assured that the forthcoming state formation conference would be held in the Himan and Heeb stronghold of Adado.

4. Under the terms of the Agreement a 25-member technical committee "representing all the clans that live in [the] regions" was to be established within 10 days of its signing. The process of creating the administration was due to be completed within 60 days of the signing of the agreement, and to be "guided and facilitated" by the FGS. The FGS was furthermore "responsible for ensuring the implementation and success" of the agreement, and for preparing the "roles and responsibilities of the technical committee".[5] On 26 August 2014, Abdullahi Godah Barre announced the appointment of 27 members to the technical committee.

5. Elements of ASWJ referred to as the Sufa group and led by Sheikh Abdirisaq Mohamed Al Ashari, had opposed the Central Regions State Formation Agreement from the outset, claiming that the group's signatory, Sheikh Ibraham Sheikh Hassan Gureye, did not represent them. In October 2014 the Sufa group attempted to arrest the District Commissioner of Guriel town for supporting the FGS-led state formation process. In November conflict erupted between Sufa fighters and the Somali National Army (SNA) in the regional capital of Galgadud, Dhusamareb.

6. Throughout November and December 2014, the Sufa group of ASWJ consolidated its control over Guriel town, as the SNA regained control of Dhusamareb. On 15 December SNA troops were sent to recover Guriel as Sufa fighters retreated westwards towards Hiran Region, though intermittent clashes between the two sides continued.

7. As SNA troops were advancing on Guriel in mid-December, members of the Technical Committee were attending a training workshop in Mogadishu. Following completion of the training workshop, on 17 December 2014 the committee elected Halimo Ismail Ibrahim "Yarey" to serve as chair. In early January 2015 meetings were held in Guriel, with the involvement of members of the technical committee, to ease the growing tensions.

8. On 25 January the Galgadud and Mudug Reconciliation Conference commenced in Dhusamareb, with approximately 400 elders from the two regions participating. As the conference continued throughout February and into March, conflict between the SNA and Sufa group continued west of the town. On 3 March the FGS Minister of Defence, General Abdulkadir Sheikh Dini visited Guriel in an attempt to end the on-going conflict. As it grew increasingly obvious that the Sufa group would not agree to the terms of a peace agreement, Ethiopian National Defence Force (ENDF) AMISOM troops arrived in the town to prop up the SNA and enforce a ceasefire.

9. On 25 March, a communiqué was disseminated announcing the end of the Galgadud and Mudug Reconciliation Conference and the beginning of the State Formation Conference of Galgadud and Mudug, with Dhusamareb continuing to host the delegates – despite assumptions among many, and particularly Abdullahi "Barley", that it would move to Adado town further north near the border with

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[5] Central Regions State Formation Agreement (Mudug and Galgadud), http://peacemaker.un.org/sites/peacemaker.un.org/files/SO_140730_CentralRegionFormation.pdf.

Mudug Region. The total number of delegates was also increased to 510. Two weeks later, on 8 April, after much political wrangling, President Hassan Sheikh announced that the State Formation Conference would in fact be moving to Adado and would commence on 11 April, however Dhusamareb was declared the provisional capital of the future federal member state.[6]

10. On 22 April 2015, as delegates for the State Formation Conference were still arriving, former Minister of Defence and close ally to President Hassan Sheikh Mohamud, Abdikarim Guled announced his intention to run for presidency of the IGA.

11. Allegations that the chair of the technical committee, Halimo "Yarey", was overstepping her authority began to emerge in early May 2015 as the committee started to appoint members to a Galmudug Regional Assembly.[7] On 12 May, the Minister of Interior and Federal Affairs, Abdirahman Mohamed Hussein "Odowaa" arrived in Adado to help address growing tensions among the delegates, prompting "Qebdiid" to accuse the Minister of interfering in the process. On 16 May, the Minister announced that matters with "Qebdiid" had been resolved, and that the conference would soon continue.[8]

12. Prime Minister Omar Abdirashid Shermarke arrived in Adado on 31 May to officially open the second phase of the State Formation Conference when delegates would nominate MPs on behalf of their sub-clans. A week later, on 7 June, the ASWJ Sufi group overran Dhusamareb, forcing SNA troops to withdraw from the city. The next day they extended their control over nearby villages establishing a defensive perimeter, and two days later peaceful demonstrations against the Adado state formation process were held in the city.

13. On 18 June, after an Al-Shabaab attack on the conference facilities was thwarted by security guards, the Constitution of Galmudug State was approved by the State Formation Conference delegate. The Constitution claimed the incorporation of Galgadud Region and the whole of Mudug

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[6] While it may have served as an attempt to appease certain opponents, the President's unilateral declaration that Dhusamareb would serve as capital of the new regional administration demonstrated an unconstitutional usurping of his role and responsibility in the process.

[7] The Monitoring Group has also reviewed communication sent at the time by a participant in the process to senior officials within both the FGS and UN alleging political interference in the selective process, calling for a review of the process to date and for independent observers from the international community to monitor the process moving forward. Halimo "Yarey" entered the political scene in 2012 when she co-chaired the Technical Selection Committee tasked with selecting the National Constituent Assembly and the National Federal Parliament. Her swift appointment as chair of the National Independent Electoral Commission soon after Abdikarim Guled won the Galmudug Presidency, and indeed after it had been announced that general elections will not be possible 2016, has added to speculation that senior government officials are attempting to use her to shape the design of a selection process to strengthen their position in 2016.

[8] On 20 May, the Galmudug Speaker of Parliament, Hassan Mohamud Hayl, publicly announced that "Qebdiid" no longer served as president of the administration but was swiftly hushed by other Galmudug MPs.

Region – including the northern districts claimed by Puntland – and confirmed Dhusamareb as the future capital of the state, despite it being held by the ASWJ Sufa group at the time.

14. Claims to the northern districts of Mudug Region prompted an immediate reaction from the Puntland administration in Garowe (see below). A press statement released by the office of President Abdiweli Mohammed Ali "Gaas" is reported to have warned of future conflict with the Galmudug administration if claims to northern Mudug were not withdrawn.[9] Over the following few weeks a series of demonstrations were held throughout Puntland opposing any attempts to threaten the state's territorial integrity.

15. Amid growing rhetoric against the process, on 20 June the Technical Committee released the list of MPs that would serve in the Regional Assembly and elect the president of the IRA. Two days later they were sworn in in at a ceremony held in Adado, and a week later they selected Ali Ga'al Asir to serve as Speaker of the Regional Assembly. Presidential candidates were then invited to make formal applications on 30 June. On 1 July, as ASWJ announced the appointment of Sheikh Mohamed Shakur Ali Hassan as president of its rival state from Dhusamareb, a list of six candidates were announced in Adado including Abdikarim Hussein Guled, Ahmed Abdisalan Adan, Ahmed Moallim Fiqi and Abdi Hassan Awale "Qebdiid". On 4 July, following three rounds of voting Abdikarim Hussein Guled secured the presidency. Guled's political ally Mohmad Hashi Araby was subsequently appointed as his vice president following a closely fought contest with Bashir Diriye Sharif.[10]

The northern borders of a Galmudug Federal Member State

16. The northern borders of a future Galmudug Federal Member State remain undefined. Twice the FGS assured the Puntland authorities – in October 2014 and April 2015 – of its commitment not to compromise the territorial integrity of Puntland which extends as far south as the city of Galkayco in Galkayco District of Mudug Region. A clear dividing line in the city separates the *Majeerteen* dominated north from *Haber Gedir*-dominated south. The extent of Puntland territory east and west of Galkayco, however, is poorly demarcated and remains a potential flash point for conflict between the two traditionally strongest clan families in Somalia, the *Hawiye* and *Darod*. Though the dividing line is fluid, Puntland maintains *de facto* control of Jariban District, most of Galdogob District, and the north of Galkacyo District in Mudug Region, leaving the south of Galkacyo District, most of Hobyo District, and all of Harardhere District within Galmudug territory.

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[9] See, for example, "Puntland warns of 'civil war' over claims of its territory by Central region state formation delegates", *Horseed Media*, 18 June 2015. Available at http://horseedmedia.net/2015/06/18/somalia-puntland-warns-of-civil-war-over-claims-of-its-territories-by-central-region-state-formation-delegates/.

[10] The Monitoring Group received reports from stakeholders present of large sums of cash – ranging from USD 10,000 to USD 30,000 – being given to members of the Regional Assembly by all parties to the process before the first round of votes for the presidency. According to the same sources, in subsequent rounds, as candidates dropped out and alliances shifted, promises of political appointees – within both the IGA and the FGS – were used to secure support.

17. The 1993 Mudug Peace Agreement – signed by General Mohamed Farah Aideed representing the United Somali Congress and *Haber Gedir* (*Hawiye*) communities in southern Mudug, and former TFG President Abdullahi Yusuf, representing the Somali Salvation Democratic Front at the time and *Majeerteen* (*Darod*) communities in northern Mudug – introduced relative stability in the region following several years of heavy inter-clan conflict. Though never fully implemented, the principles of the peace agreement dividing the territory were, at least until the Galmudug State Formation Conference, loosely adhered to. As the authors of a report on the Mudug Peace Agreement prepared by the Puntland Development Research Center in 2006 state, "[i]n many respects, Mudug – and its peace – are pivotal to the entire future of Somalia: as a vital crossroads for trade with the Somali regions of Eastern Ethiopia; a commercial 'meeting-point' for the nation's northern and southern regions; and – perhaps most importantly – as a unique melting pot in which the Darod, Hawiye and other clans meet and interact".[11]

18. The apparent inclusion of all of Mudug Region in the initial approved Galmudug Constitution threatens the relative stability that followed the signing of the Mudug Peace Agreement. Prime Minister Omar Abdirashid 'Sharmarke' travelled to Garowe in July 2015 in an attempt to ease tensions over the border but ultimately returned to Mogadishu having achieved little. The FGS and Galmudug are now presented with a challenge which has serious implications for the peace, security and stability of Somalia. By adhering to the general principles of the Mudug Peace Agreement, splitting Mudug Region, they will likely prevent an outbreak of inter-communal conflict in the region. They would, however, also defy the Provisional Constitution requirement that a federal member state be formed of at least two contiguous regions as defined in 1991, and potentially invite multiple claims for constitutional exceptions to be made in the state formation process. In the absence of a Constitutional Court or indeed a fully functioning independent Boundaries and Federation Commission, the Inter-Governmental Authority on Development (IGAD) has once again offered to step in and mediate between Puntland and the Galmudug IRA. At the time of writing, there was little evidence of progress being made to determine the northern border of a future Galmudug Federal Member State.

Conflict with Ahlu Sunna wal Jama'a

19. Prior to the signing of the Central Regions State Formation Agreement, ASWJ had contributed significantly to relative security in the areas under its control, extending from the north east Hiran Region across the northern parts of Galgadud Region. While the split within ASWJ may originally have had more to do with *Haber Gedir* sub-clan politics than ideological positions, the FGS' loss of a key military ally and the emergence of a new, well-armed opposition group in central Somalia may prove to have significant consequences for the region. ASWJ's initiation of the parallel state formation process, and the election of their own president 3 days before Abdikarim Guled won the presidency of the Galmudug IRA, indicate an entrenchment of their position in the region.

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[11] PDRC, "Peacemaking at the Crossroads: Consolidation of the 1993 Mudug Peace Agreement" 2006.

20. Diverting the resources of the SNA and AMISOM to engage with a former ally, at a time when both forces are already stretched thin attempting to hold ground recovered from Al-Shabaab and continue offences against the group, represents a further grave threat to peace, security and stability in the region.

21. The failure to mitigate conflict between ASWJ and the SNA early on in the process and to ensure the interests of all influential stakeholders were at least nominally represented in it, compromises the future legitimacy of the IGA unless significant political, and likely financial, capital is spent securing full ASWJ buy-in. Media reports suggest that the administration was partially successful in achieving this prior to the formation of the cabinet. Despite having recently lost the town of Abudwaq to IGA forces, at the time of writing a militarily powerful faction of ASWJ that continues to oppose the IGA maintained control of Dhusamareb, the agreed capital of a future Galmudug FMS and seat of government for the IGA.

Link Natural Resources

22. As the Galgadud and Mudug Reconciliation Conference was on-going, evidence obtained by the Monitoring Group suggests that a private extractives company entered into an agreement with the former Galmudug State under its president, Abdi Hassan Awale "Qebdiid". The deal is signed by the former 'Minister of Petroleum and Minerals of Galmudug State', Hared Ali Hared, who now serves as Deputy Speaker of the Galmudug Regional Assembly. The contract apparently awards the company the right to export minerals, gas and oil. According to a presentation prepared by Link Natural Resources, the company appears most interested in the "very high tonnage surficial Uranium mineralization discovered in Galguduud region in late 60's".

23. According to the same presentation, the proposed concession area extends will into northern Galkayo District, and thereby into territory claimed by the Puntland. In a telephone interview on 8 September 2015 the company's CEO, Sam McKay informed the Monitoring Group that the company had recently discussed the matter with representatives of both the IGA and the Puntland authorities though he would not disclose who these discussions were held with.[12]

24. The contract also includes, "as a gesture of goodwill", a commitment by Link National Resources to assist "with financing the required security essential to provide a conclusive working environment for both parties", raising clear concerns with regards to the arms embargo.[13]

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[12] At the time of writing, the Monitoring Group is unable to assess the extent to which either the IGA or Puntland Government are engaging with the company or indeed, givens its apparent lack of experience in the extractives sector, its capacity to conduct exploration in the region. A version of the presentation is available on a company website created in August 2015: http://link-natural-resources.com/

[13] Link Natural Resources presentation held on file with the Monitoring Group.

Summary

25. The formation of the IGA demonstrates the inherent risks to the peace, security and stability of Somalia involved in the federalization process. In a contest fought by a complex array of political, clan and business networks, the FGS lost a powerful allied militia and has potentially opened a new front of conflict as a resurgent Al-Shabaab threatens to reverse territorial gains made against it. An important though fragile peace agreement signed in 1993 between communities living in Mudug Region is at risk of collapsing, which could result in inter-communal conflict spreading throughout central Somalia, and would likely prompt the total withdrawal of Puntland from the federal project.

Annex 1.2: Bribery of Federal MPs

(STRICTLY CONFIDENTIAL)[*]

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[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 2

Natural resources

Annex 2.1: Sale of fishing licenses

1. On 25 July 2013, the FGS Ministry of Fisheries and Marine Resources entered into an agreement authorising Somalia-FishGuard Ltd. to be the sole agent responsible for the sale of fishing licenses on behalf of the FGS (see S/2014/726, annex 5.1), and granting the company a 49 per cent share of the revenues generated. However, a 21 November 2014 letter[1] from former Minister Mohamed Olow Barrow to Somalia FishGuard criticised the terms of the deal and demanded they be renegotiated. According to the current Director General of the Ministry, Ahmed Iman, the Somalia FishGuard contract has been suspended.[2] Subsequently, the Ministry has since begun selling fishing licenses directly, largely to China-flagged longliners.

2. The Monitoring Group is concerned that the sale of licenses, especially without a federal-regional resource sharing agreement in place, has the potential to fuel corruption and even conflict. As one of the few FGS ministries capable of generating external revenue, the Monitoring Group is concerned over the potential for that revenue stream to be diverted around the FGS' public financial management system and subsequently misappropriated by agents of the state.

Sale of licenses to Chinese longliners

3. Since March 2015, the FGS Ministry of Fisheries and Marine Resources has sold 11 licenses, mostly to China-flagged longliners fishing for tuna and tuna-like species, generating more than USD 180,000 in revenue (see annex 2.1.a for a chart of fishing licenses issued by the Ministry from March to August 2015).

4. On 18 March 2015, the Minister of Fisheries and Marine Resources, Mohamed Aimoy, told the Monitoring Group that the Ministry was not currently issuing licenses.[3] However on 17 March 2015 the Ministry had already issued its first license of the year, a two-month permit to the Belize-flagged trawler *Greko 2*. Also in March 2015, the Ministry began selling licenses to the Chinese agent Simon Chen, representing the Yu Shian Group, a multinational fishing agency and consultancy firm. Commencing 23 March 2015, Chen purchased three-month licenses for three vessels owned the Hangzhou-based company Zhejiang Ocean Family, a client of Yu Shian Group.

5. Revenues from the sale of these licenses were routed to a bank account in Djibouti in the name of the Ministry of Fisheries and Marine Resources. A remittance slip dated 23 March 2015 (attached

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[1] On file with the Monitoring Group.

[2] In an email to the SEMG on 21 August 2015, Ahmed Iman stated that the Somalia FishGuard Ltd. contract was "not active", citing Minister Barrow's letter. However, after reviewing the Somalia FishGuard contract, it is the SEMG's view that the Ministry did not have sufficient grounds to unilaterally suspend the contract.

[3] SEMG round-table meeting with senior FGS officials at Villa Somalia, Mogadishu, 17 March 2015.

in annex 2.1.b) shows one transfer of USD 40,100 into the Ministry's Djibouti Dahabshiil account by Yu Shian International Pty, as payment on behalf of Zhejiang Ocean Family for fishing licenses for the *Xin Shi Ji 37* and *Xin Shi Ji 76* (see annex 2.1.c for a copy of the *Xin Shi Ji 76's* license).

6. The Ministry's use of a private bank account outside of Somalia constitutes a violation of a February 2014 ministerial directive requiring all Government revenue to be deposited in the Treasury Single Account (TSA) at the Central Bank of Somalia.[4] The Monitoring Group shared the details of the Ministry's Djibouti account with the FGS Minister of Finance, Mohamed Aden Ibrahim, on 18 July 2015.

IUU fishing and subsequent license purchases by Chinese longliners

7. At the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, the FGS delegation presented a paper on IUU activities in the Somali EEZ.[5] The report highlighted illegal fishing by seven Chinese longliners, all bearing the name *Lu Qing Yuan Yu* or *Xin Shi Ji*. The Chinese delegation at the conference expressed surprise that Chinese longliners were operating within Somalia's EEZ, and offered to contact the vessels to ask them to leave the area.[6] Later that same day, all the Chinese longliners fishing without licenses had left Somalia's EEZ.[7]

8. Following the Chinese Government's crackdown on China-flagged vessels fishing illegally within Somalia's EEZ, the companies involved immediately sought to purchase licenses from the FGS. A Taiwanese agent, Howard Tan, subsequently purchased fishing licenses from the Ministry for seven China-flagged longliners in May 2015 on behalf of their parent company, Deepsea Fisheries Management Ltd.: the *Liao Yuan Yu 99*, and the *Lu Qing Yuan Yu 101, 102, 105, 106, 107*, and *108*. Six of the seven vessels had been singled out for illegal fishing during the 19th Session of the IOTC. The payments for these licenses were made to the Ministry's Djibouti-based Dahabshiil bank account.

9. Director General Iman subsequently wrote to Howard Tan on 29 June 2015: *Dear Howard, As we discussed before please kindly ask the below named vessel owners to pay urgently the fined vessels US Dollar $ 10,000 each for penalty charges according to their illegal fishing time period in Somalia marine waters without license in accordance with Somali fisheries regulations*.[8] The email then lists six fishing vessels, the *Lu Qing Yuan Yu 101, 102, 105, 106, 107*, and *108*, assessing each a fine of

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[4] Ibid., paragraph 64.

[5] Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed IUU fishing activities in the EEZ of Somalia", 27 April 2015. This paper, which was presented as the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, was in actuality drafted by the FAO on behalf of the FGS.

[6] A "Back to Office" report prepared by a participant of the conference, on file with the SEMG.

[7] Ibid.

[8] Email on file with the Monitoring Group.

USD 10,000. An examination of the 2014 Fisheries Law, however, reveals no legislative basis for the fines assessed by Iman.[9] It appears that he was acting on his own discretion in assessing arbitrary amounts to be paid by the company.

10. On 15 April 2015, another Taiwanese agent, Richard Tan, questioned Hussein Ahmed, a Ministry official, concerning the propriety of making payments to a bank account in Djibouti: *I note that this bank account is maintained in Djibouti and not in Somalia. And potentially questions will be raised as to why the account for the ministry is being maintained in Djibouti but not in Somalia.* Iman forwarded the message to Minister Aimoy, who sent back a response to Iman in the Somali language on 18 April 2015: *Mr. Director General, please convince these people of the reasons we're using Dahabshiil bank in Djibouti. Thank you (unofficial translation).*[10]

11. The FGS Minister of Finance, Mohamed Ibrahim Aden, provided the Monitoring Group with a statement for the Ministry of Fisheries Dahabshiil account from 3 February 2015 to 25 August 2015 (see annex 2.1.d). From 31 March to 24 May 2015, the statement shows five deposits in payment for license fees from Deepsea Fisheries Management Ltd. and Yu Shian International Pty, totalling roughly USD 180,000.

12. By 27 April 2015, the USD 180,000 in fishing license fees had been transferred in two instalments from the Ministry's Dahabshiil account into its account at the Central Bank of Somalia (#80) – as opposed to the TSA, as should have been the procedure – and withdrawn shortly thereafter.[11] On 9 April 2015, the first instalment of USD 64,900 appeared in the Ministry of Fisheries CBS account. The next day, a representative of the Ministry withdrew USD 63,950 in cash from the CBS account. On 27 April 2015, the remaining USD 114,700 was transferred from the Dahabshiil account to the CBS account. The following day, USD 113,000 was withdrawn in cash from the CBS account in the name of an individual named Hussein Dhuubow. The Ministry informed the Central Bank Governor that Dhuubow was a building contractor owed money for the refurbishment of the Ministry's headquarters in Mogadishu.[12]

13. As of this writing, the Monitoring Group had not yet been unable to verify the identity of Hussein Dhuubow, or confirm that the fishing license funds had been utilised towards the Ministry building in Mogadishu.

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[9] The 2014 FGS Fisheries Law stipulates fines for IUU fishing ranging from USD 1,100-1,500 for boats with a 31-60 horsepower engines, and from USD 1 million to USD 10 million for boats with 101 or greater horsepower. Oddly, the legislation does not stipulate fines for boats with engines in the 61-100 horsepower range.

[10] Email on file with the Monitoring Group.

[11] The Central Bank records provided to the SEMG by CBS Governor Bashir Issa on 8 September 2015.

[12] Email from CBS Governor Bashir Issa to the SEMG, 9 September 2015.

Doggang Daping Enterprises Group

14. The Monitoring Group has obtained a copy of a draft agreement (provided in annex 2.1.e) between the FGS Ministry of Fisheries and Marine Resources and Doggang Daping Enterprises Group, a fisheries company based out of Liaoning, China. The agreement demonstrates the Ministry's efforts to drastically expand the sale of fishing licenses, without regard for Somali national law or regional agreements. The agreement is written in broken English and evidently without legal oversight.

15. The draft agreement grants Doggang Daping a seven-year exclusive right to purchase licenses for up to 50 trawlers or purse seiners, while prohibiting other companies of Chinese origin from engaging in fishing activities in Somali waters. With a maximum license fee of USD 250,000 per fishing vessel per year, the potential annual revenue to the Ministry amounts to USD 12.5 million. Given the Ministry's past practice, this revenue would most likely be diverted into the Ministry's private Dahabshiil bank account in Djibouti, thereby circumventing the FGS' Treasury Single Account at the Central Bank.

16. Paragraph 1 of the draft agreement stipulates that Doggang Daping "may bring its own security with weapons on board [its fishing vessels]" as well as "inside…company offices". This clause, in essence, authorises the company to violate the Security Council's arms embargo on Somalia.

17. Paragraph 3 of the draft agreement permits Doggang Daping to fish within six nautical miles from shore, as well as trawl for demersal species such as octopus and scallops. The clause twice violates the FGS' own 2014 Fisheries Law, which requires foreign fishing vessels to remain at least 24 nautical miles from shore in order to avoid encroaching on local fishermen; the Law also prohibits the practice of bottom trawling. In addition, the paragraph contravenes an April 2014 agreement between the FGS and Puntland, Galmudug, and the IJA, which held that coastal demersal stocks were to be managed at the regional, not federal, level.[13]

18. The draft agreement obligates Doggang Daping to pay the Ministry a USD 70,000 "royalty fee" to be used towards "capacity building". This provision draws parallels to the Monitoring Group's investigation into Soma Oil & Gas Holdings Limited (see annex 2.5), which reveals how the term "capacity building" was employed by the FGS Ministry of Petroleum and Mineral Resources in order to solicit bribes to ministerial and other FGS officials. However, the Monitoring Group has no evidence that the "capacity building" clause in the Doggang Daping draft agreement was intended to serve the same purpose.

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[13] Communiqué of the Somali MRSS Fisheries Working Group, 2-6 April 2014, Beau Vallon, Seychelles.

19. As of this writing, the draft agreement had not been signed by either the Ministry or Doggang Daping. Director General Iman told the Monitoring Group that representatives of Doggang Daping had met with the Ministry in Mogadishu in the hopes of obtaining a deep-sea fishing contract, but had been rebuffed.[14] However, a 7 August 2015 email from Director General Iman to Doggang Daping, copying Minister Aimoy and other Ministry officials, indicates the Ministry's eagerness to cement the agreement: *Dear Colleagues, Kindly see attached little pit (sic) amended the previous Fishing Agreement Draft Between Somalia and China. Kindly also note that we are ready to final it (sic) as soon as possible.*[15]

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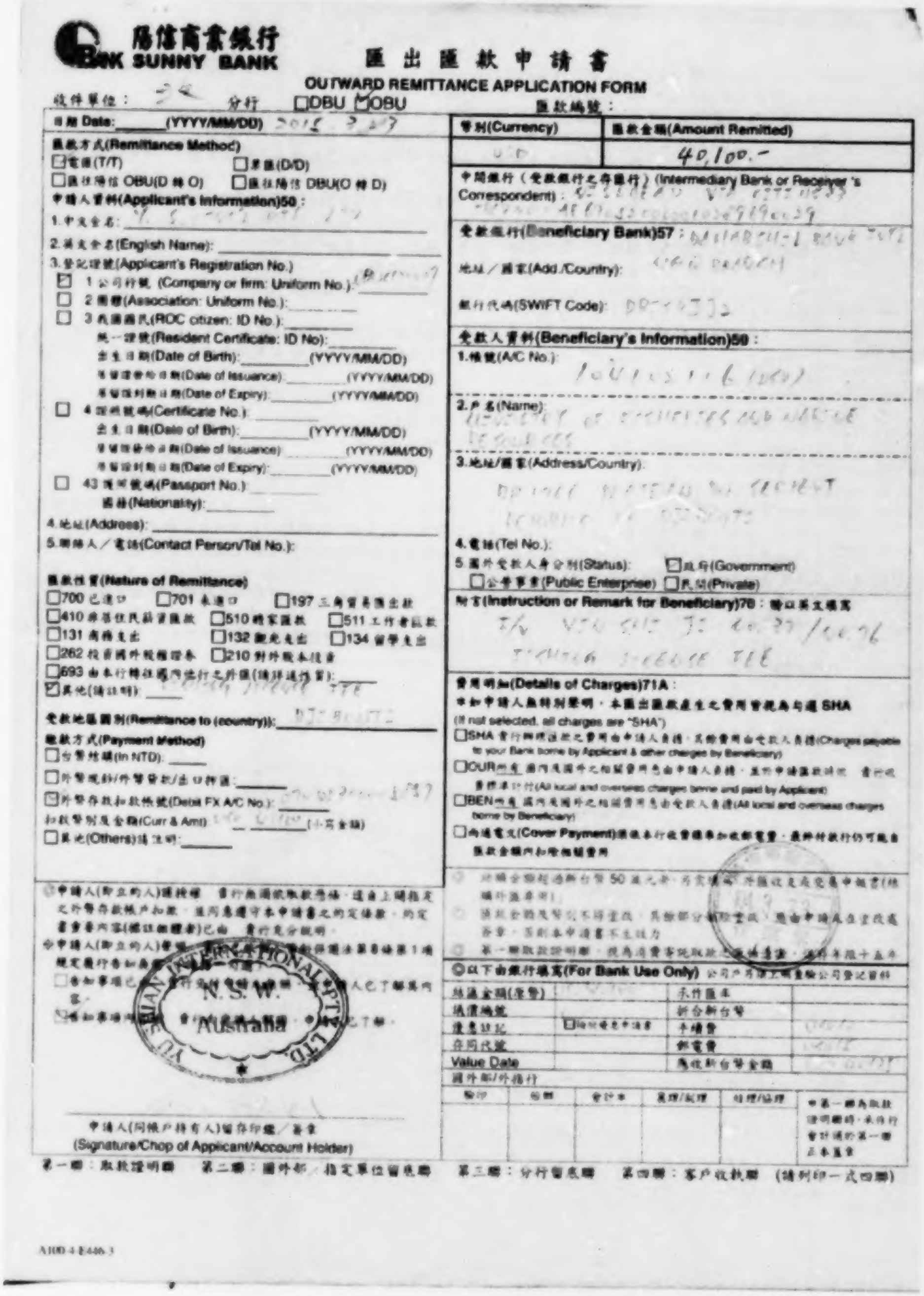
[14] Email from Ahmed Mohamed Iman to the SEMG, 21 August 2015.
[15] Email on file with the Monitoring Group.

Annex 2.1.a: Chart of FGS Ministry of Fisheries and Marine Resources licence sales from March-August 2015

Vessel Name	Flag	Owner	LOA	GT	Start date	End date	Issuance date	Fees
Greko 2	Belize	Madre Fishing Co. SA (Panama City, Panama)	28	193	15-03-20	15-05-20	15-03-17	UNKNOWN
Xin Shi Ji 76	China	Zhejiang Ocean Family (Hangzhou, China)	48.7	634	15-03-28	15-06-27	15-03-28	USD 25,000
Xin Shi Ji 37	China	Zhejiang Ocean Family (Hangzhou, China)	48.6	497	15-03-28	15-06-27	15-03-28	USD 15,000
Xin Shi Ji 86	China	Zhejiang Ocean Family (Hangzhou, China)	48.7	634	15-04-02	15-07-01	15-04-01	USD 25,000
Lu Qing Yuan Yu 106	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 101	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 102	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 107	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000
Lu Qing Yuan Yu 105	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000
Liao Yuan Yu 99	China	Deepsea Fisheries Mgt Ltd	48.8	577	15-05-27	15-08-26	15-05-25	USD 25,000
Lu Qing Yuan Yu 108	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000
								USD 180,000

Annex 2.1.b: Remittance advice form for license fees totalling USD 40,100 for the *Xin Shi Ji 37* and *Xin Shi Ji 76*, paid by Yushian International Pty Ltd.



陽信商業銀行
SUNNY BANK

匯出匯款申請書
OUTWARD REMITTANCE APPLICATION FORM

□DBU ☑OBU

Date: ______ (YYYY/MM/DD) 2015. 3. 27

(Currency)	(Amount Remitted)
USD	40,100.-

(Remittance Method)
☑ (T/T) □ (D/D)
□ OBU(D 轉 O) □ DBU(O 轉 D)

(Applicant's Information)50:
1.
2. (English Name):
3. (Applicant's Registration No.)
☑ 1 (Company or firm: Uniform No.):
□ 2 (Association: Uniform No.):
□ 3 (ROC citizen: ID No.):
(Resident Certificate: ID No):
(Date of Birth): ______ (YYYY/MM/DD)
(Date of Issuance): ______ (YYYY/MM/DD)
(Date of Expiry): ______ (YYYY/MM/DD)
□ 4 (Certificate No.):
(Date of Birth): ______ (YYYY/MM/DD)
(Date of Issuance): ______ (YYYY/MM/DD)
(Date of Expiry): ______ (YYYY/MM/DD)
□ 43 (Passport No.):
(Nationality):
4. (Address):
5. (Contact Person/Tel No.):

(Nature of Remittance)
□700 □701 □197
□410 □510 □511
□131 □132 □134
□262 □210
□693
☑ FISHING LICENSE FEE

(Remittance to (country)):
(Payment Method)
□ (in NTD):
□
☑ (Debit FX A/C No.):
(Curr & Amt)
□ (Others):

(Intermediary Bank or Receiver's Correspondent):
(Beneficiary Bank)57:
(Add./Country):
(SWIFT Code):

(Beneficiary's Information)59:
1. (A/C No.):
2. (Name):
3. (Address/Country):
4. (Tel No.):
5. (Status): ☑ (Government) □ (Public Enterprise) □ (Private)

(Instruction or Remark for Beneficiary)70:
T/T XIN SHI JI NO.37/NO.76
FISHING LICENSE FEE

(Details of Charges)71A:
SHA
(If not selected, all charges are "SHA")
□SHA (Charges payable to your Bank borne by Applicant & other charges by Beneficiary)
□OUR (All local and overseas charges borne and paid by Applicant)
□BEN (All local and overseas charges borne by Beneficiary)
□ (Cover Payment)

(For Bank Use Only)

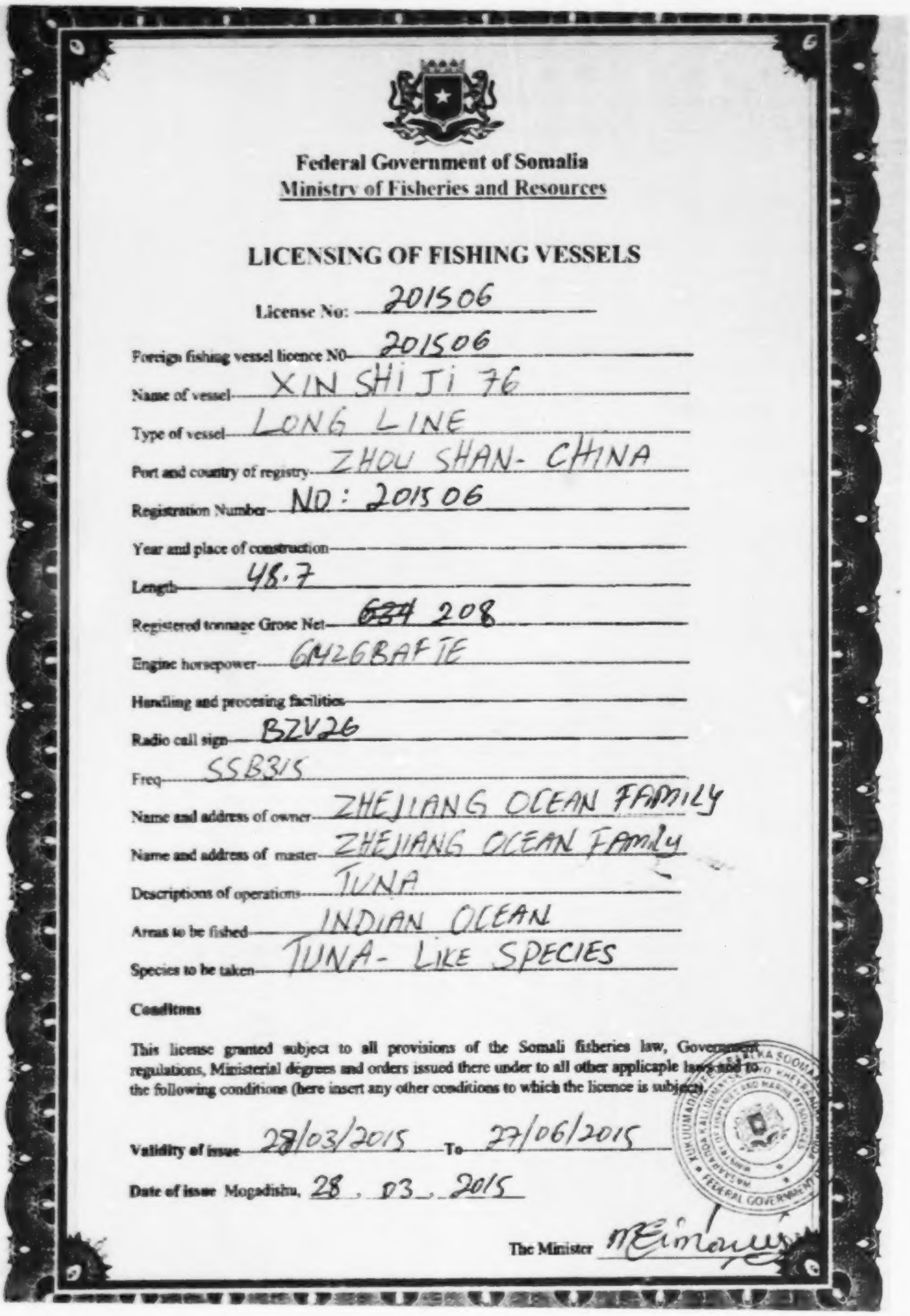
Value Date

YUSHIAN INTERNATIONAL PTY LTD
N.S.W.
Australia

(Signature/Chop of Applicant/Account Holder)

A100-4 E446.3

Annex 2.1.c: Six-month fishing license for the *Xin Shi Ji 76*, sold by Director General Iman to agent Simon Chen



Federal Government of Somalia
Ministry of Fisheries and Resources

LICENSING OF FISHING VESSELS

License No: 201506

Foreign fishing vessel licence NO 201506

Name of vessel XIN SHI JI 76

Type of vessel LONG LINE

Port and country of registry ZHOU SHAN- CHINA

Registration Number ND: 201506

Year and place of construction

Length 48.7

Registered tonnage Grose Net ~~634~~ 208

Engine horsepower 6M26BAFTE

Handling and procesing facilities

Radio call sign BZV26

Freq SSB315

Name and address of owner ZHEJIANG OCEAN FAMILY

Name and address of master ZHEJIANG OCEAN FAMILY

Descriptions of operations TUNA

Areas to be fished INDIAN OCEAN

Species to be taken TUNA- LIKE SPECIES

Conditions

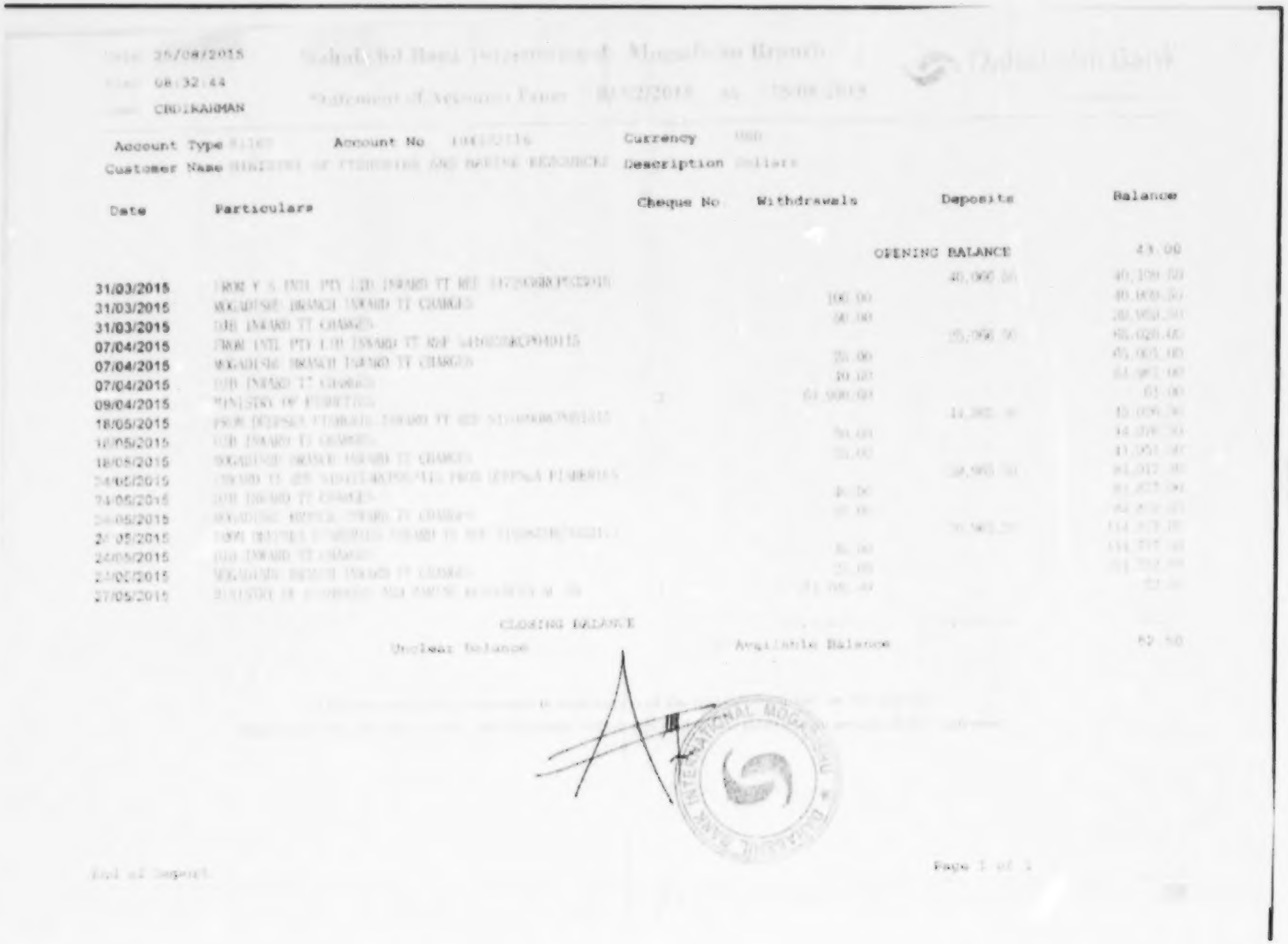
This license granted subject to all provisions of the Somali fisheries law, Government regulations, Ministerial degrees and orders issued there under to all other applicaple laws and to the following conditions (here insert any other conditions to which the licence is subject).

Validity of issue 28/03/2015 **To** 27/06/2015

Date of issue Mogadishu, 28 . 03 . 2015

The Minister

Annex 2.1.d: Ministry of Fisheries and Marine Resources Dahabshiil bank statement from 3 February 2015 to 25 August 2015



Date 25/08/2015
Time 08:32:44
User CBDIRAHMAN

Dahabshiil Bank International Mogadishu Branch
Statement of Account From 03/02/2015 to 25/08/2015

Dahabshiil Bank

Account Type [illegible] Account No [illegible] Currency USD
Customer Name MINISTRY OF FISHERIES AND MARINE RESOURCES Description Dollars

Date	Particulars	Cheque No	Withdrawals	Deposits	Balance
				OPENING BALANCE	43.00
31/03/2015	FROM Y S INTL PTY LTD INWARD TT REF [illegible]			40,066.50	40,109.50
31/03/2015	MOGADISHU BRANCH INWARD TT CHARGES		100.00		40,009.50
31/03/2015	DIB INWARD TT CHARGES		50.00		39,959.50
07/04/2015	FROM INTL PTY LTD INWARD TT REF [illegible]			25,068.50	65,028.00
07/04/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		65,003.00
07/04/2015	DIB INWARD TT CHARGES		20.00		64,983.00
09/04/2015	MINISTRY OF FISHERIES	2	64,900.00		83.00
18/05/2015	FROM DEEPSEA FISHERIES INWARD TT REF [illegible]			[illegible]	[illegible]
18/05/2015	DIB INWARD TT CHARGES		50.00		[illegible]
18/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		[illegible]
24/05/2015	INWARD TT REF [illegible] FROM DEEPSEA FISHERIES			[illegible]	[illegible]
24/05/2015	DIB INWARD TT CHARGES		[illegible]		[illegible]
24/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		[illegible]		[illegible]
24/05/2015	FROM DEEPSEA FISHERIES INWARD TT REF [illegible]			[illegible]	[illegible]
24/05/2015	DIB INWARD TT CHARGES		[illegible]		[illegible]
24/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		[illegible]
27/05/2015	MINISTRY OF FISHERIES AND MARINE RESOURCES [illegible]	1	[illegible]		[illegible]

CLOSING BALANCE

Unclear Balance Available Balance 62.50

End of Report

Page 1 of 1

Annex 2.1.e: Draft agreement between the FGS Ministry of Fisheries and Marine Resources and Doggang Daping Enterprises Group

AGREEMENT

BETWEEN

THE MINISTRY OF FISHERIES AND MARINE RESOURCES OF THE FEDERAL GOVERNMENT OF SOMALIA AND DOGGANG DAPING ENTERPRISES GROUP FROM CHINA ON DEEP SEA FISHING AND FISHERIES COOPERATION.

The Ministry of Fisheries and Marine Resources of the Federal Government of Somalia and the Doggang Daping Enterprises Group from China hereinafter referred to as the "Parties"
The Ministry of Fisheries and Marine Resources as first part and Daping group as Second part.

Desiring to strengthen the existing friendly relation and cooperation between the Ministry of Fisheries and Marine Resources of the Federal Government of Somalia and the Doggang Damping Enterprises Group from China and their people.

Considering their common interests and to promote deep sea fishing and foster technical exploration and capacity building cooperation in the spirit of equality and mutual benefit.

Recognizing that trawler fishing cooperation would lead to common benefits on marine and fisheries and economic development of the parties.

Pursuant to the prevailing laws and regulations in the Somali republic.

1) The Security of the fishing vessels and the company's offices in the ground will be given security-guard by the Somali Government, but the company will pay their allowance and the agreed company may bring its own security with weapons on board which may support inside of their company offices and the fishing vessels. The government of Somalia will secure the security of the company to the highest standard and if anything happens to the company the Somali government will do everything to assist the Company.

2) The First Party shall provide the Second Party with the authorization of 7 years valid exclusive agent and permission of fishing trawlers and purse seiners for China(any other individuals or companies from China shall not be permitted to the engagement of any fishing activities in the mentioned ocean neither by trawlers nor by purse seiners, otherwise agreed to the Second Party). And the second part is not permitted for Tuna and Tuna like species.

9) Daping Group will build fishing processing plant center in Mogadishu-Somalia after they finish (the test period exploration which is 2 years).

10) Daping will donate fishing gears to the Somali local fisheries each year. The Daping group will increase the capacity of the Somali fishermen for giving them training and also will give lectures about marine recourses and how to protect the sea for the fishing ministry as a good will return to the Somali people.

11) Dapping pays **70, 000 USD** of royalty fee to the Ministry of Fisheries and Marine Resources for support of the capacity building of the ministry and purchase some requirement materials such as of vehicles and this money Daping group will make the payment when they are buying the first fishing licenses from the fishing ministry.

12) In witness whereof, the undersigned, being duly authorized parties respective have signed this Contract.

13) Done in Mogadishu, Somalia on this 25 day of August 2015 in two original copies in the English Language, both text being equally authentic.

Signed by :

MINISTRY OF FISHERIES & MARINE RESORCES --

DOGGANG DAPPING ------------------------------------

Date..................

Annex 2.2: The *Al Amal* and *Poseidon*, and the assault on the Auditor General

20. Corruption involving the sale of fishing licenses threatens to undermine Somali public institutions, including the Office of the Auditor General. In January 2015, the efforts of the Auditor General, Nur Farah, to investigate the illegal fishing activities of a vessel that had entered Mogadishu port, may have directly resulted in an assault on his person and subsequent threats against his life.

Background

21. On 9 January 2015, the fishing carrier vessel *Al Amal* entered Mogadishu port, flying the Somali flag, in order to refuel (*Al Amal's* Automatic Identification System (AIS) track from 9-15 January is available in annex 2.2.e). From 3 to 5 January, the *Al Amal's* sister ship, the trawler *Poseidon*, had remained in close proximity to Mogadishu port, prior to proceeding towards Kismayo and subsequently Mombasa (*Poseidon's* AIS track is also available in annex 2.2.e).

22. AIS tracks show that since the beginning of 2015, the *Al Amal* and *Poseidon* have operated in tandem, with the *Poseidon* engaged mostly in fishing activities and the *Al Amal* serving as a carrier ship for storing the *Poseidon's* catch.[16] Both vessels are owned by the Yemeni-based Burum Seafood Co. (for the *Al Amal's* registration certificate, see annex 2.2.d). The Monitoring Group has yet to identify the beneficial owners of Burum Seafood Co., however a Republic of Korea national, An Hyun Soo, represents the company.[17]

Dubai licensing network

23. Upon entering Mogadishu harbour, the *Al Amal* was inspected by the Mogadishu port authority. The ship's crew produced a one-year Puntland fishing license that ostensibly authorised it to fish in Somalia's EEZ from 1 September 2014 until 1 September 2015. FGS officials subsequently contacted the Puntland Ministry of Fisheries and Marine Resources, which responded with a letter (available in annex 2.2.b) on 15 January 2015 to the FGS, declaring the license to be a forgery. The letter stated that Puntland only issues licenses for 45-day periods, and requested that the FGS hold the vessel so that Puntland authorities could take punitive action against it.

24. The agent listed on the license is "Cabdi Nuur". "Cabdi Nuur", also known as Abdinor, is based in Bosaso and is a "point man" of a network supplying licenses to Korean fishing vessels.[18] "According to An Hyun Soo, fishing licenses for five of his vessels were purchased from this Dubai network, at prices ranging from USD 15,000 to USD 20,000 each.[19]

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[16] Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed IUU fishing activities in the EEZ of Somalia", 27 April 2015.

[17] According to a Yemen fisheries official, An is responsible for the "fleet operation" of Burum Seafood Co., and also assists the Yemeni Government with "maritime consulting". Email seen by the Monitoring Group, 25 August 2015.

[18] Intelligence from a maritime source based in Mombasa, corroborated by An Hyun Soo.

[19] SEMG phone interview with An Hyun Soo, 25 August 2015.

25. Iranian fishing agents also appear to be purchasing licenses through this Dubai network. At the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, the Iranian delegation claimed that Iranian fishing vessels were not engaged in IUU fishing, but rather that the Iranian fishing fleet was purchasing Puntland licenses from an agent in Dubai.[20] The Iranian delegation provided no subsequent information regarding the identity of this agent, despite follow-up inquiries by an individual present at the conference. However, An Hyun Soo told the Monitoring Group that Iranian fishing agents regularly purchased licenses from a broker named "Abdulkadir" in Dubai.[21] As further corroboration, an Iranian gillnetter inspected in Salalah port, Oman, from 8 to 9 March 2015 produced a Puntland license that had been modified and was valid only until December 2013; however, the agent field was left blank (see annex 2.2.g for a copy of this fake license).[22] The Monitoring Group's 2013 report also highlighted the use of forged documents by Iranian fishing dhows, providing copies of four such licenses (see S/2013/413, annex 3.1).

26. The FGS Auditor General Nur Farah also conducted an inspection of the *Al Amal* in Mogadishu, informing the SEMG that the vessel was holding 70 tonnes of catch in its hold.[23] Farah concluded the vessel had been fishing illegally and attempted to detain it. A 15 January 2015 text message, seen by the Monitoring Group, from the FGS Director General of the Ministry of Fisheries and Marine Resources, Ahmed Iman, reveals that Iman also believed the *Al Amal* to be an "illegal fishing vessel". Despite of the Director General's and Auditor General's positions, and the documentary evidence that *Al Amal* was not licensed to fish in Somalia's EEZ, the vessel was released on 15 January 2015 and left Mogadishu port the same day. An Hyun Soo told the Monitoring Group that that Mogadishu's port authority had asked for money in exchange for the vessel's release, but did not confirm whether any amount had been paid.[24]

27. Auditor General Farah stated in a subsequent media interview that the vessel had been freed after President Hassan Sheikh Mohamud sent a letter to the Banadir Regional Court.[25] However, Farah also claimed in the same interview that the FGS Attorney General, Dr. Ahmed Ali Dahir, had ordered the vessel released. In an interview with the Monitoring Group, Farah recounted he had been "told by 'upper management' to let [the *Al Amal*] go".[26] The Attorney General, conversely, told the Monitoring Group that the *Al Amal* had entered Mogadishu to buy fish from local markets, and that the vessel possessed both a valid Puntland license and a "general trading license" issued by the FGS.[27]

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[20] A "Back to Office" Report prepared by a participant of the conference, on file with the SEMG.
[21] Text message from An Hyun Soo to the SEMG, 27 August 2015.
[22] Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed IUU fishing activities in the EEZ of Somalia", 27 April 2015.
[23] SEMG interview with Nur Farah in Nairobi, 21 March 2015.
[24] Text message from An to the SEMG, 25 August 2015.
[25] Phone interview with Nur Farah by VOA Somali, 22 January 2015, available from https://somaliagenda.com/auditor-general-breaks-silence-illegal-fishing/.
[26] SEMG interview with Nur Farah in Nairobi, 21 March 2015.
[27] SEMG interview with Dr. Ahmed Ali Dahir in Mogadishu, 11 June 2015.

As noted above, the Monitoring Group has concluded that the *Al Amal's* Puntland license was a forgery, and the Group has not been able to confirm the existence of any additional licenses or permits carried by the vessel.

28. The Monitoring Group contacted the Puntland Government in August and September 2015 to request information on the issuing of forged fishing licenses, but did not receive a response.

Assault on the Auditor General

29. On 18 January 2015, three days after the release of the *Al Amal*, the Auditor General was prevented from entering his office at Villa Somalia and was reportedly assaulted by the compound's guards. Farah told the Monitoring Group that the presidential guards repeatedly brought down a checkpoint barrier on his vehicle, forcing him to take cover in the foot well.[28] Farah also told the Group that he believed his attempt to detain the *Al Amal* had brought on the attack, and that he had since stopped investigating IUU fishing because he feared for his safety.[29] Farah also claimed in interviews with local media that his life was in danger.[30] The Group is not aware of subsequent threats against Farah since January 2015.

The grounding of the *Al Amal* in Puntland

30. On 5 August 2015, the *Al Amal* experienced mechanical problems and ran aground off the coast of Puntland near the former pirate base of Eyl (a photo of the grounded vessel is available in annex 2.2.h). The 34-member crew[31] was subsequently rescued in an operation carried out by the Puntland Marine Police Force (PMPF). The crew was transported to Garowe and the majority repatriated; however the captain and the chief engineer were detained in Puntland, pending possible criminal action against the vessel for illegal fishing and environmental damage.

31. The Monitoring Group has obtained a copy of the Puntland fishing license the *Al Amal* was carrying at the time it ran aground, reproduced in annex 2.2.c. Similar to the license produced by *Al Amal's* crew upon inspection at Mogadishu port, this document was forged, with the fields containing the length of its validly, dates, and nationality of the vessel noticeably altered by computer. The dates on the license purport it to be valid from 25 November 2014 to 25 November 2015; however, the license is signed and stamped by former Puntland Minister of Fisheries Mohamed Farah Adan, who had left his post by February 2014.

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[28] SEMG interview with Nur Farah in Nairobi, 21 March 2015.

[29] Ibid.

[30] Somali Agenda, "Auditor-General breaks silence over illegal fishing", 23 January 2015. Available from https://somaliagenda.com/auditor-general-breaks-silence-illegal-fishing/.

[31] The *Al Amal's* crew consisted of 14 Kenyans, 12 Indonesians, 6 Vietnamese, and 2 Yemenis.

Private Armed Security Teams (PASTs)

32. According to the *Al Amal's* crew manifest, on file with the Monitoring Group, the two Yemeni crewmembers served on board as an armed security detail. Not only was their presence a violation of the arms embargo on Somalia, such deployments have the potential to recreate the conditions that led to the emergence of Somali piracy in 2007, by fomenting conflict between foreign fishing vessels and local fishermen.

33. The deployment of PASTs on board *Al Amal* and *Poseidon* appears to have been standard practice. After leaving the vicinity of Mogadisu port on 5 January 2015, the *Poseidon* arrived at Kismayo on 6 February. According to An Hyun Soo the vessel then discharged a Somaii private security detachment before proceeding to Mombasa.[32] This testimony is corroborated by other information received by the Monitoring Group to the effect that both *Poseidon* and *Al Amal* have routinely employed Somali-origin PASTs on board.[33]

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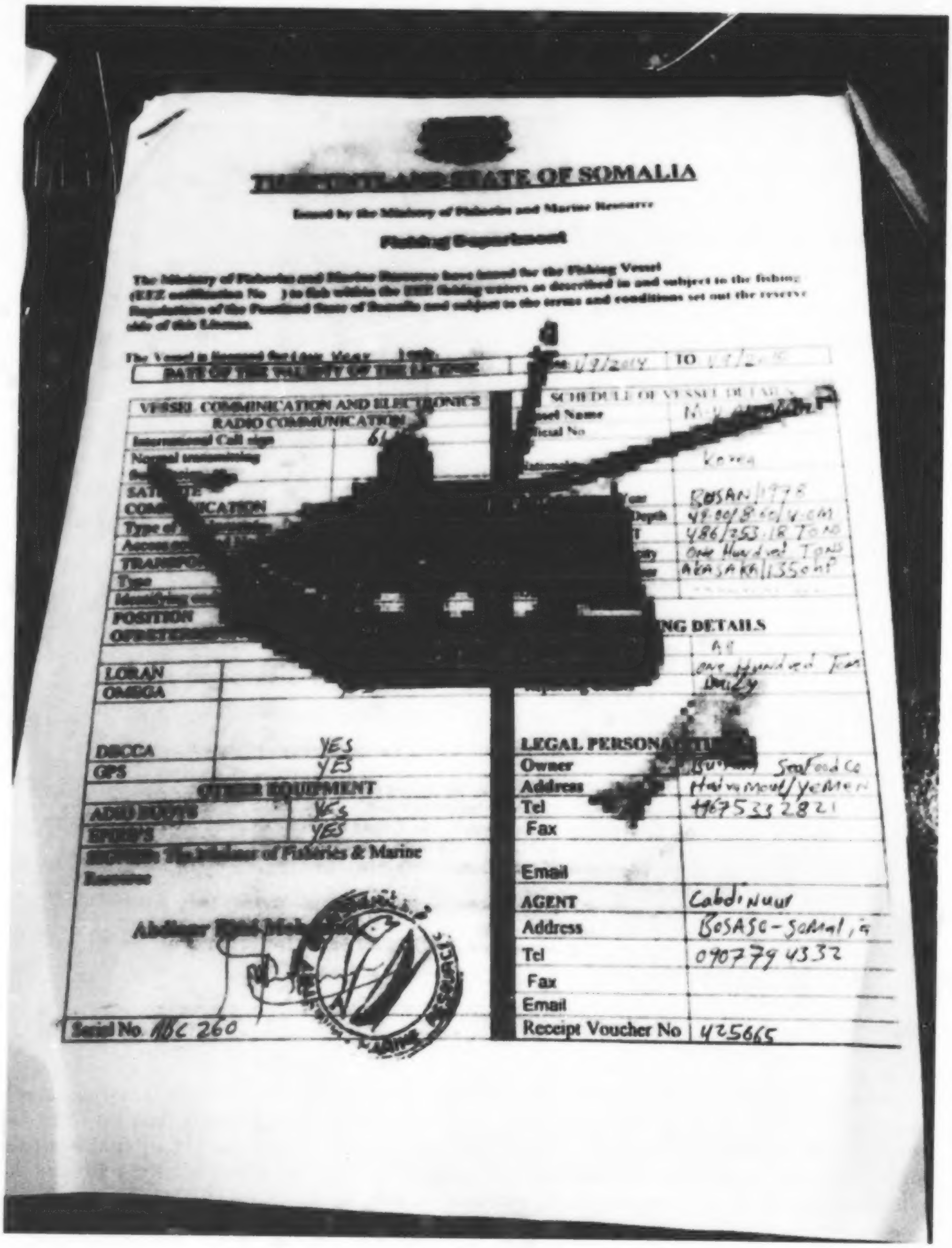
[32] Text message exchange between the SEMG and An Hyun Soo, 25 August 2015. The *Poseidon* was detained in Mombasa on suspicion of IUU fishing and inspected. Before a more detailed inspection could be conducted the vessel was mysteriously released, following the intercession of a Republic of Korea national, Kim Jong Kyu, acting on behalf of Burum Seafood Co. Kim, who claims to represent the "Mombasa Shipping Agent Company Ltd"., travels on a Kenyan passport (#C031553). The *Poseidon's* license was inspected during its port call in Mombasa; annex 2.2.f shows that it had also been altered by computer.

[33] SEMG interview with FAO consultant Julien Million, 21 May 2015.

Annex 2.2.a: Fake Puntland license obtained by FGS Auditor General Nur Farah during his inspection of the *Al Amal* in Mogadishu port on 13 January 2015



THE PUNTLAND STATE OF SOMALIA

Issued by the Ministry of Fisheries and Marine Resource

Fishing Department

The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reverse side of this License.

The Vessel is licensed for One Year only.

DATE OF THE VALIDITY OF THE LICENSE | 1/9/2014 | TO [illegible]/2015

VESSEL COMMUNICATION AND ELECTRONICS

RADIO COMMUNICATION

International Call sign: 6[illegible]

Normal transmitting

SATELLITE COMMUNICATION

TRANSPO[illegible]

Type

POSITION

LORAN

OMEGA

DECCA: YES

GPS: YES

OTHER EQUIPMENT

ADIO BUOYS: YES

EPIRB'S: YES

SIGNED: The Minister of Fisheries & Marine Resource

Abdinasir [illegible]

Serial No. ABC 260

SCHEDULE OF VESSEL DETAILS

Vessel Name: M.V. [illegible]

Official No

Korea

BUSAN/1978

49.00/8.60/4.0M

486/353.18 TON

One Hundred Tons

AKASAKA/1350HP

FISHING DETAILS

AR

One Hundred Ton Daily

LEGAL PERSONALITIES

Owner: [illegible] Seafood Co

Address: Hadramout/Yemen

Tel: +967533 2821

Fax

Email

AGENT: Cabdinuur

Address: Bosaso-Somalia

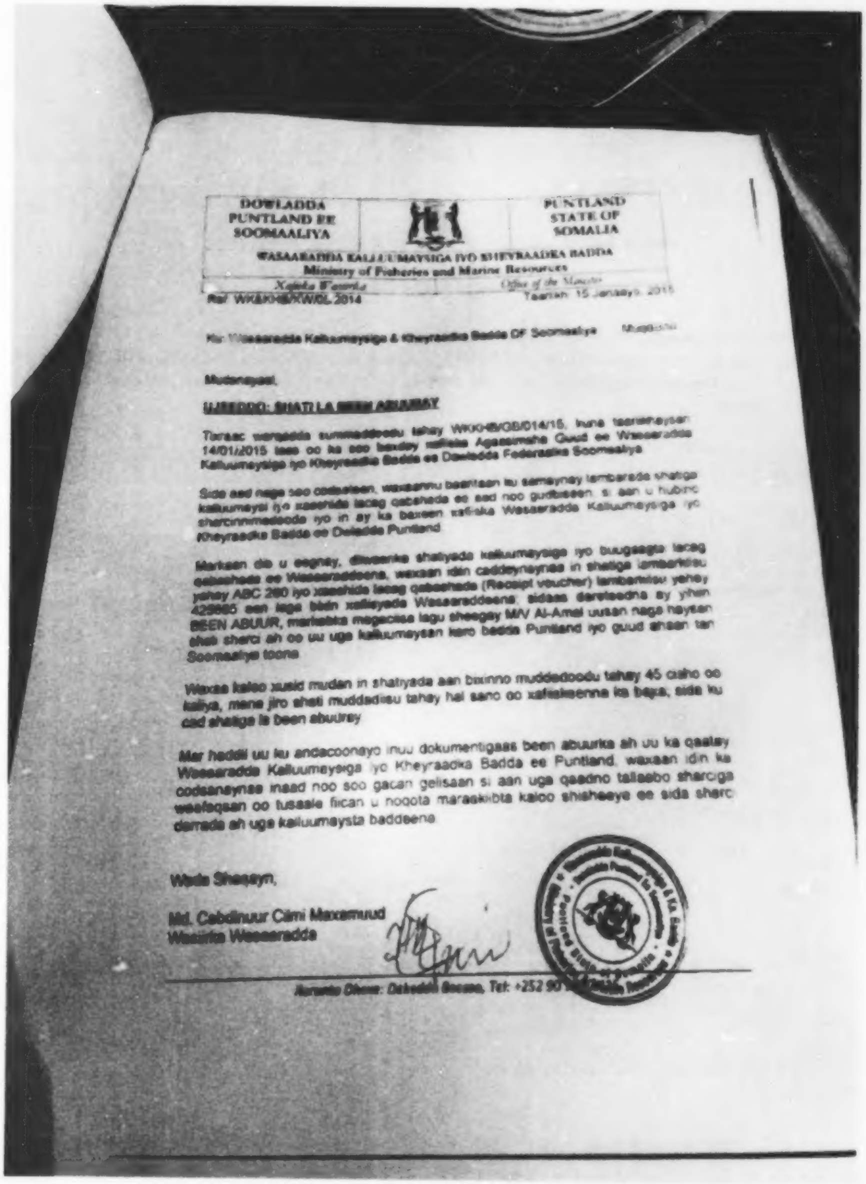
Tel: 090779 4332

Fax

Email

Receipt Voucher No: 425665

Annex 2.2.b: Letter from Puntland Government dated 15 January 2015, declaring the *Al Amal's* license to be forged



DOWLADDA PUNTLAND EE SOOMAALIYA

PUNTLAND STATE OF SOMALIA

WASAARADDA KALLUUMAYSIGA IYO KHEYRAADKA BADDA
Ministry of Fisheries and Marine Resources

Xafiiska Wasiirka
Office of the Minister

Ref: WK&KHB/XW/DL 2014

Taariikh: 15 Janaayo 2015

Ku: Wasaaradda Kalluumaysiga & Kheyraadka Badda DF Soomaaliya Muqdisho

Mudanayaal,

UJEEDDO: SHATI LA BEEN ABUURAY

Tixraac warqadda summaddeedu tahay WKKHB/GB/014/15, kuna taariikhaysan 14/01/2015 taas oo ka soo baxday xafiiska Agaasimaha Guud ee Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Dowladda Federaalka Soomaaliya

Sida aad naga soo codsateen, waxaannu baaritaan ku samaynay lambarada shatiga kalluumaysi iyo xaashida lacag qabashada ee aad noo gudbiseen, si aan u hubino sharciyadooda iyo in ay ka baxeen xafiiska Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Dowladda Puntland

Markaan dib u eegnay, diiwaanka shatiyada kalluumaysiga iyo buugaagta lacag qabashada ee Wasaaraddeena, waxaan idin caddeynaynaa in shatiga lambarkiisu yahay ABC 280 iyo xaashida lacag qabashada (Receipt voucher) lambarkiisu yahay 429886 aan laga bixin xafiisyada Wasaaraddeena, sidaas darteedna ay yihiin BEEN ABUUR, markabka magaciisa lagu sheegay M/V Al-Amal uusan naga haysan shati sharci ah oo uu uga kalluumaysan karo badda Puntland iyo guud ahaan tan Soomaaliya toona

Waxaa kaloo xusid mudan in shatiyada aan bixinno muddadoodu tahay 45 cisho oo kaliya, mana jiro shati muddadiisu tahay hal sano oo xafiiskeenna ka baxa, sida ku cad shatiga la been abuuray

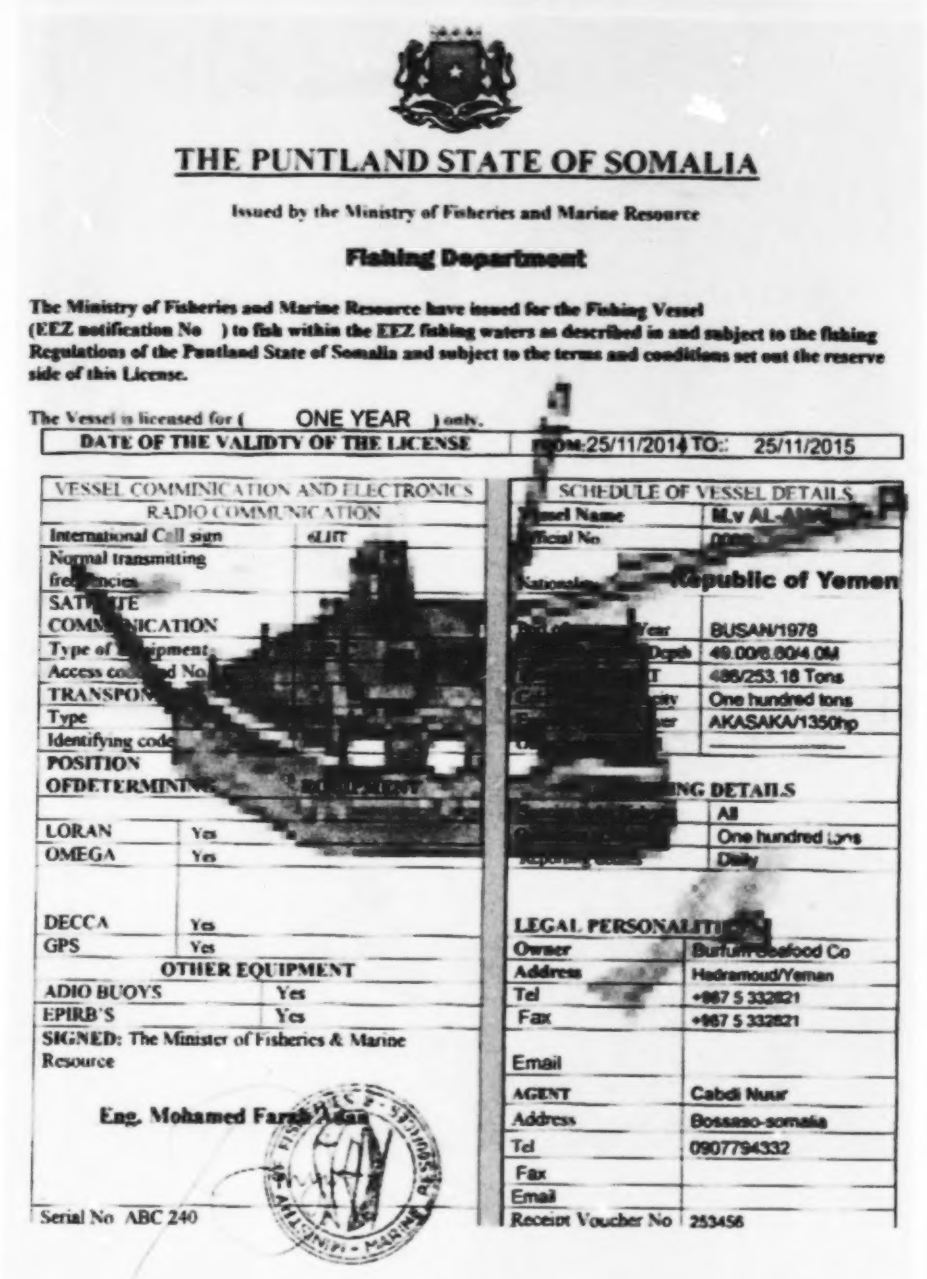
Mar haddii uu ku andacoonayo inuu dokumentigaas been abuurka ah uu ka qaatay Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Puntland, waxaan idin ka codsanaynaa inaad noo soo gacan gelisaan si aan uga qaadno tallaabo sharciga waafaqsan oo tusaale fiican u noqota maraakiibta kaloo shisheeye ee sida sharci darrada ah uga kalluumaysta baddeena

Wada Shaqayn,

Md. Cabdinuur Cilmi Maxamuud
Wasiirka Wasaaradda

Xarunta Dhexe: Dakadda Boosaaso, Tel: +252 90 [illegible]

Annex 2.2.c: Forged Puntland fishing license for *Al Amal* produced after the vessel ran aground near Eyl, Puntland on 5 August 2015



THE PUNTLAND STATE OF SOMALIA

Issued by the Ministry of Fisheries and Marine Resource

Fishing Department

The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reserve side of this License.

The Vessel is licensed for (ONE YEAR) only.

DATE OF THE VALIDTY OF THE LICENSE	FROM:25/11/2014 TO:: 25/11/2015

VESSEL COMMINICATION AND ELECTRONICS	
RADIO COMMUNICATION	
International Call sign	6LIIT
Normal transmitting frequencies	
SATELLITE COMMUNICATION	
Type of Equipment	
Access code and No.	
TRANSPONDER	
Type	
Identifying code	
POSITION OFDETERMINING	[illegible]
LORAN	Yes
OMEGA	Yes
DECCA	Yes
GPS	Yes
OTHER EQUIPMENT	
ADIO BUOYS	Yes
EPIRB'S	Yes

SIGNED: The Minister of Fisheries & Marine Resource

Eng. Mohamed Farah Adan

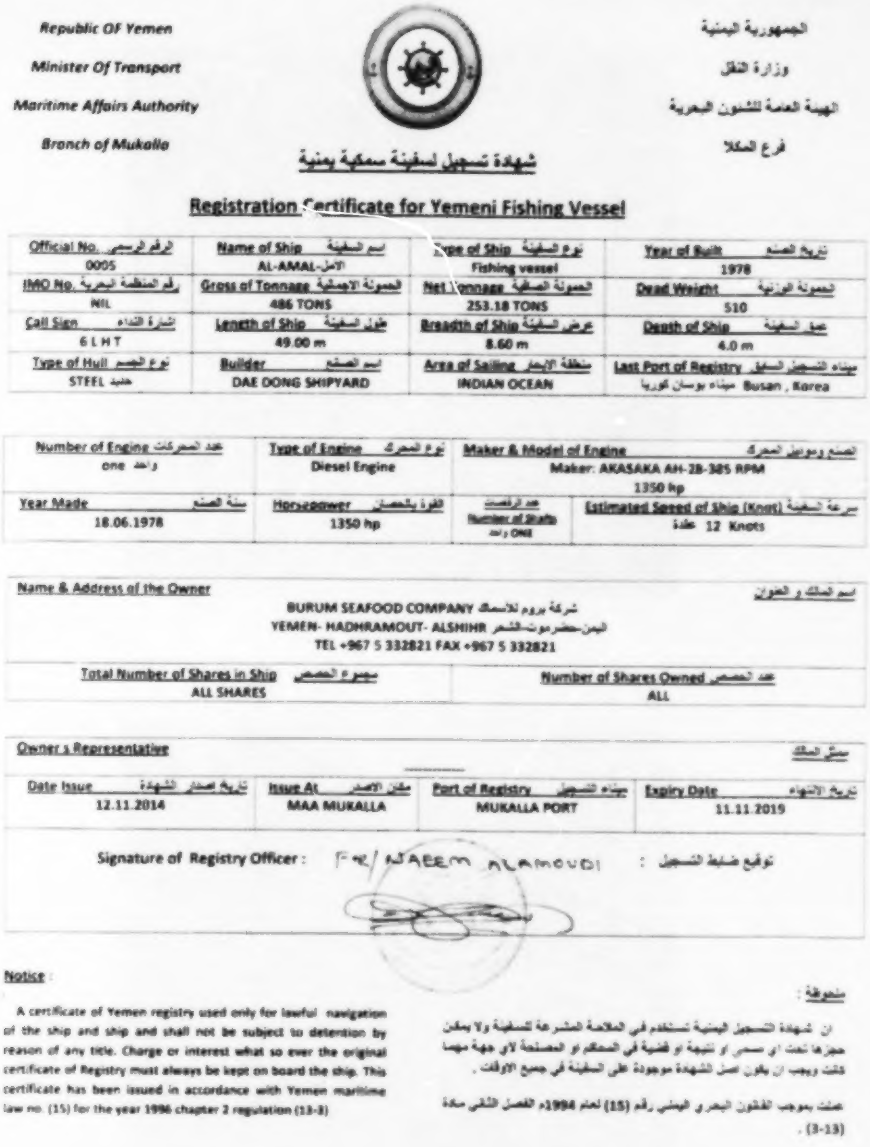
Serial No ABC 240

SCHEDULE OF VESSEL DETAILS	
Vessel Name	M.v AL-[illegible]
Official No	[illegible]
Nationality	Republic of Yemen
[illegible] Year	BUSAN/1978
[illegible] Depth	49.00/6.60/4.0M
[illegible]	486/253.18 Tons
[illegible]	One hundred tons
[illegible]	AKASAKA/1350hp
[illegible]	——————

[illegible]NG DETAILS	
[illegible]	All
[illegible]	One hundred tons
Reporting [illegible]	Daily

LEGAL PERSONALITIES	
Owner	Burumseafood Co
Address	Hadramoud/Yemen
Tel	+967 5 332821
Fax	+967 5 332821
Email	
AGENT	Cabdi Nuur
Address	Bossaso-somalia
Tel	0907794332
Fax	
Email	
Receipt Voucher No	253456

Annex 2.2.d: Yemeni registration certificate for *Al Amal*



Republic Of Yemen
Minister Of Transport
Maritime Affairs Authority
Branch of Mukalla

الجمهورية اليمنية
وزارة النقل
الهيئة العامة للشئون البحرية
فرع المكلا

شهادة تسجيل لسفينة سمكية يمنية

Registration Certificate for Yemeni Fishing Vessel

Official No. الرقم الرسمي 0005	**Name of Ship** اسم السفينة AL-AMAL-الأمل	**Type of Ship** نوع السفينة Fishing vessel	**Year of Built** تاريخ الصنع 1978
IMO No. رقم المنظمة البحرية NIL	**Gross of Tonnage** الحمولة الاجمالية 486 TONS	**Net Tonnage** الحمولة الصافية 253.18 TONS	**Dead Weight** الحمولة الوزنية 510
Call Sign اشارة النداء 6 L H T	**Length of Ship** طول السفينة 49.00 m	**Breadth of Ship** عرض السفينة 8.60 m	**Depth of Ship** عمق السفينة 4.0 m
Type of Hull نوع الجسم STEEL حديد	**Builder** اسم الصانع DAE DONG SHIPYARD	**Area of Sailing** منطقة الابحار INDIAN OCEAN	**Last Port of Registry** ميناء التسجيل السابق ميناء بوسان كوريا Busan , Korea

Number of Engine عدد المحركات one واحد	**Type of Engine** نوع المحرك Diesel Engine	**Maker & Model of Engine** الصنع وموديل المحرك Maker: AKASAKA AH-28-385 RPM 1350 hp	
Year Made سنة الصنع 18.06.1978	**Horsepower** القوة بالحصان 1350 hp	**عدد الرفاصات** **Number of Shafts** واحد ONE	**Estimated Speed of Ship (Knot)** سرعة السفينة عقدة 12 Knots

Name & Address of the Owner — اسم المالك و العنوان

BURUM SEAFOOD COMPANY شركة بروم للأسماك
YEMEN- HADHRAMOUT- ALSHIHR اليمن-حضرموت-الشحر
TEL +967 5 332821 FAX +967 5 332821

Total Number of Shares in Ship مجموع الحصص ALL SHARES	**Number of Shares Owned** عدد الحصص ALL

Owner s Representative — ممثل المالك

———

Date Issue تاريخ اصدار الشهادة 12.11.2014	**Issue At** مكان الاصدار MAA MUKALLA	**Port of Registry** ميناء التسجيل MUKALLA PORT	**Expiry Date** تاريخ الانتهاء 11.11.2019

Signature of Registry Officer : FOR/ NAEEM ALAMOUDI : توقيع ضابط التسجيل

Notice :

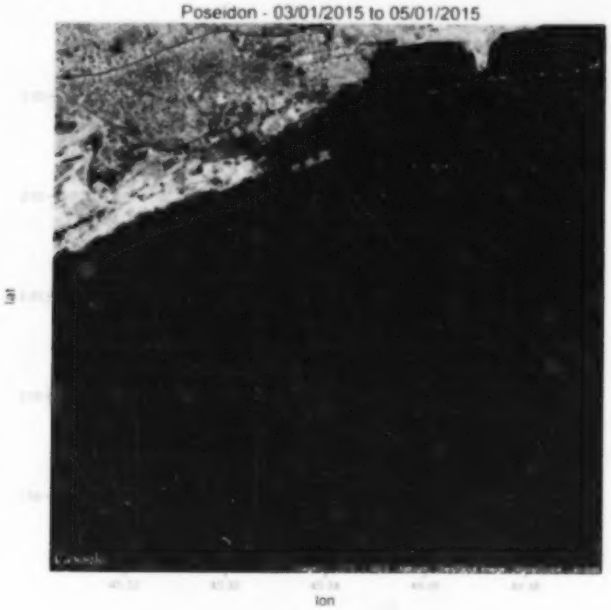
A certificate of Yemen registry used only for lawful navigation of the ship and ship and shall not be subject to detention by reason of any title. Charge or interest what so ever the original certificate of Registry must always be kept on board the ship. This certificate has been issued in accordance with Yemen maritime law no. (15) for the year 1996 chapter 2 regulation (13-3)

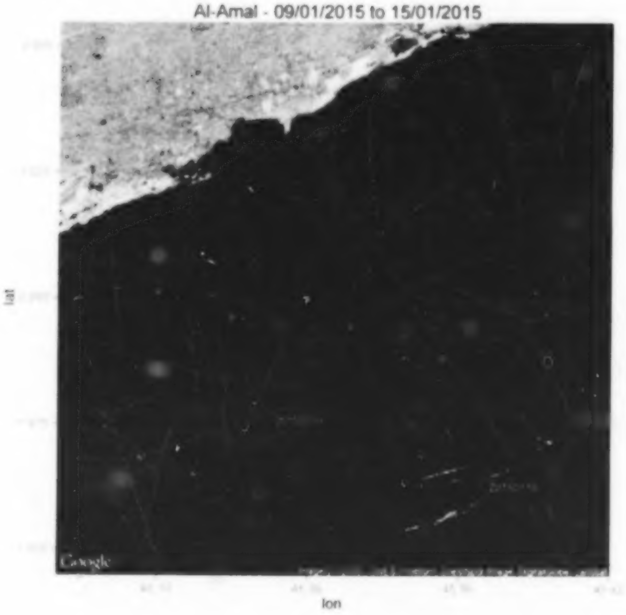
ملحوظة :

ان شهادة التسجيل اليمنية تستخدم في الملاحة المشروعة للسفينة ولا يمكن حجزها تحت اي مسمى او نتيجة او قضية في المحاكم او المصلحة لاي جهة مهما كانت ويجب ان يكون اصل الشهادة موجودة على السفينة في جميع الاوقات .

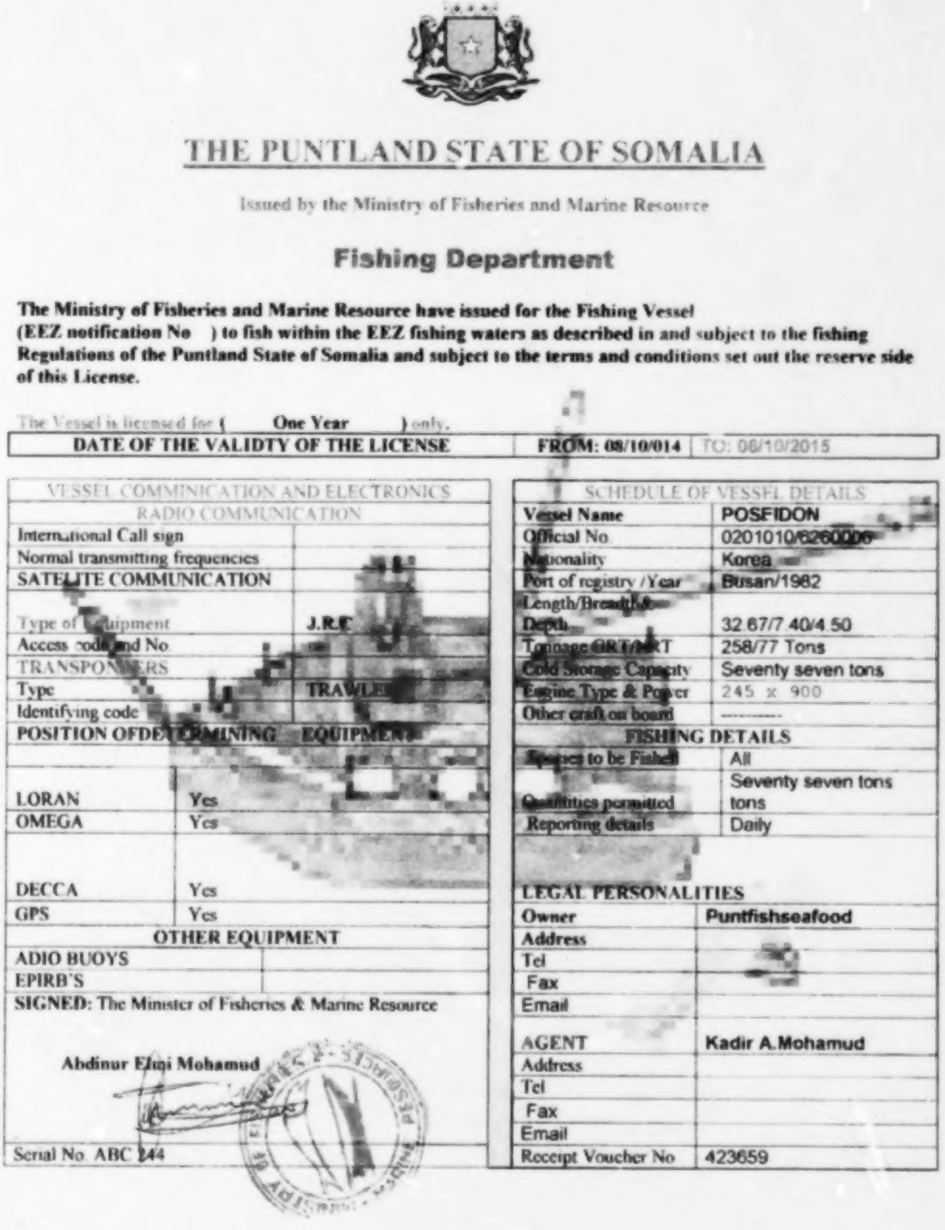
عملت بموجب القانون البحري اليمني رقم (15) لعام 1994م الفصل الثاني مادة (3-13) .

Annex 2.2.e: AIS tracks for the *Poseidon* and *Al Amal*, showing their proximity to Mogadishu port from 3 January 2015 to 15 January 2015, when the *Al Amal* left Mogadishu


Poseidon - 03/01/2015 to 05/01/2015
lat
lon
Google


Al-Amal - 09/01/2015 to 15/01/2015
lat
lon
Google

Annex 2.2.f: Puntland license for the *Poseidon*, the sister ship of the *Al Amal*, altered by computer.



THE PUNTLAND STATE OF SOMALIA

Issued by the Ministry of Fisheries and Marine Resource

Fishing Department

The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reserve side of this License.

The Vessel is licensed for (**One Year**) only.

DATE OF THE VALIDTY OF THE LICENSE	**FROM: 08/10/014**	TO: 08/10/2015

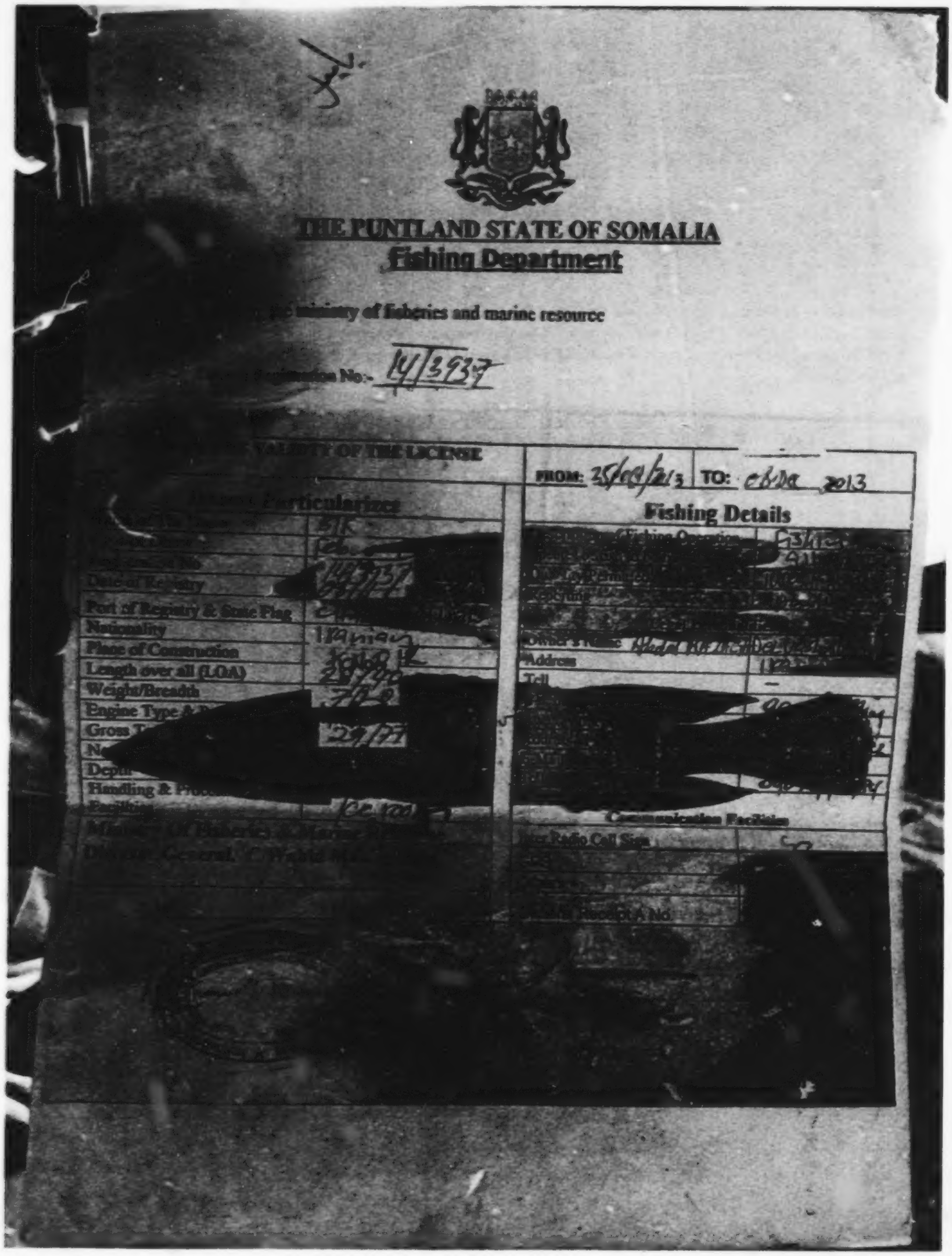
VESSEL COMMINICATION AND ELECTRONICS	
RADIO COMMUNICATION	
International Call sign	
Normal transmitting frequencies	
SATELITE COMMUNICATION	
Type of Equipment	J.R.C
Access code and No	
TRANSPONDERS	
Type	TRAWLER
Identifying code	
POSITION OFDETERMINING EQUIPMENT	
LORAN	Yes
OMEGA	Yes
DECCA	Yes
GPS	Yes
OTHER EQUIPMENT	
ADIO BUOYS	
EPIRB'S	
SIGNED: The Minister of Fisheries & Marine Resource	

Abdinur Elmi Mohamud

Serial No. ABC 244

SCHEDULE OF VESSEL DETAILS	
Vessel Name	POSFIDON
Official No	0201010/6260006
Nationality	Korea
Port of registry /Year	Busan/1982
Length/Breadth/& Depth	32.67/7.40/4.50
Tonnage GRT/NRT	258/77 Tons
Cold Storage Capacity	Seventy seven tons
Engine Type & Power	245 x 900
Other craft on board	----------
FISHING DETAILS	
Species to be Fished	All
Quantities permitted	Seventy seven tons tons
Reporting details	Daily
LEGAL PERSONALITIES	
Owner	Puntfishseafood
Address	
Tel	
Fax	
Email	
AGENT	Kadir A.Mohamud
Address	
Tel	
Fax	
Email	
Receipt Voucher No	423659

Annex 2.2.g: Fake Puntland fishing license for an Iranian gillnetter inspected in Salalah from 8-9 March 2015.



THE PUNTLAND STATE OF SOMALIA
Fishing Department

[illegible] the ministry of fisheries and marine resource

[illegible] Registration No:- 14/3937

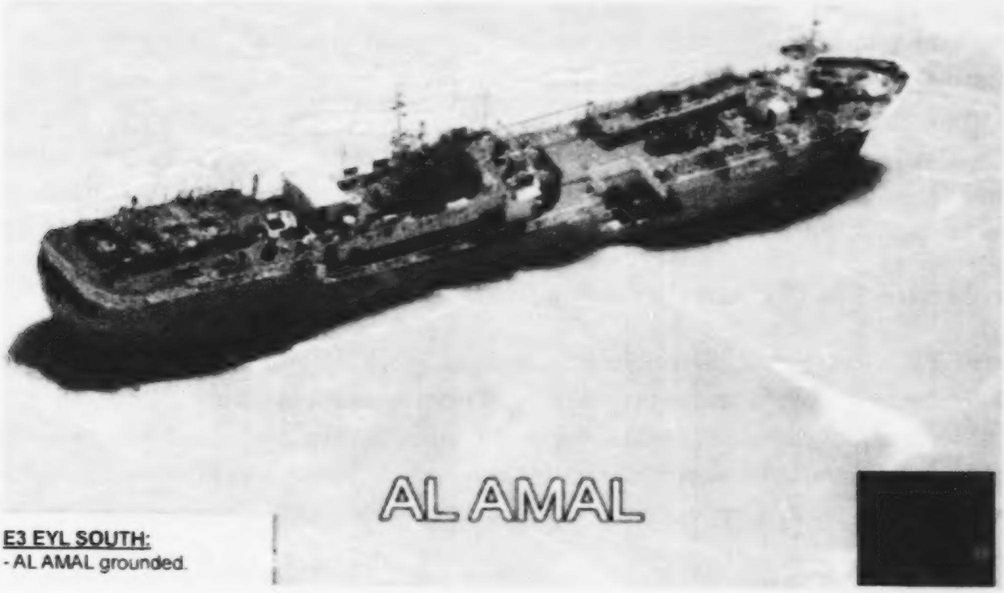
[illegible] VALIDITY OF THE LICENSE	FROM: 25/[illegible]/2013 TO: [illegible] 2013

[illegible] Particularizes	
[illegible]	[illegible]
[illegible]	[redacted]
[illegible] No	[redacted]
Date of Registry	[redacted]
Port of Registry & State Flag	[redacted]
Nationality	Iranian
Place of Construction	[illegible]
Length over all (LOA)	[illegible]
Weight/Breadth	[illegible]
Engine Type & [redacted]	[redacted]
Gross [redacted]	29/77
N[redacted]	[redacted]
Dept[redacted]	[redacted]
Handling & Pro[redacted] Facilities	[illegible]

Ministry of Fisheries & Marine Resources
Director General, [illegible]

Fishing Details	
[redacted]	[redacted]
Owner's Name	[redacted]
Address	[redacted]
Tell	–
[redacted]	[redacted]
Communication Facilities	
Inter Radio Call Sign	[illegible]
[illegible]	
[illegible]	
[illegible] Receipt A No.	[illegible]

Annex 2.2.h: The *Al Amal* ran aground near Eyl, Puntland on 5 August 2015



E3 EYL SOUTH:
- AL AMAL grounded.

[redacted]

Annex 2.3: Continuing privatisation of Somalia's maritime space

34. The Monitoring Group believes that the continuing privatisation of Somalia's maritime space – through empowering private companies to simultaneous manage marine resources, issue fishing licenses, and provide security – represents a threat to peace and security as per paragraph 8 (a) of resolution 1844 (2008). During the Group's mandate, two companies, Somali Security Services Ltd. (SSS Ltd.) and Anglo Somaliland Resources Ltd. (ASR Ltd.), have been granted such rights in Puntland and Somaliland, respectively.

Somali Security Services Ltd. (SSS Ltd.) in Puntland

35. On 23 March 2015, the Somali Security Services Ltd. (SSS Ltd.) entered into a nine-month agreement with the Puntland Government to provide Coast Guard services. In exchange, the company will receive 30 per cent of Government revenue obtained from fishing license sales and fines imposed on arrested vessels. The contract also stipulates that the company's marines will be drawn from the ranks of the Puntland police force. A copy of the SSS Ltd. contract is provided in annex 2.3.a.

36. SSS Ltd. is headed by Abdiweli Ali Taar, a former taxi driver and sales clerk from Toronto, Canada. Taar is a close personal associate of Puntland President Abdiweli Mohamed Ali "Gaas". When the Puntland Maritime Police Force (PMPF) placed "Gaas" under house arrest in October 2012 in Bosaso,[34] while "Gaas" was still an opposition politician, he was staying at Taar's residence.[35]

37. Prior to founding SSS Ltd., Taar headed another private outfit, the Somali-Canadian Coast Guard (SomCan), which served as Puntland's Coast Guard from 2002-2005 and again from 2008-2009. Even though SomCan was not authorised to sell fishing licenses, the company nonetheless sold licenses to its own private clients, with Taar signing many of them personally.[36] In particular, SomCan favoured one client – the Thai fishing company Sirichai – and stationed its marines on the decks of Sirichai's fishing vessels.[37] SomCan's practices led to conflicts with local fishermen, contributing over time to the emergence of Somali piracy. SomCan's first Coast Guard stint came to an end when the company's own marines hijacked a fishing vessel they had been tasked with guarding, the *Sirichainava 12*, and demanded a USD 800,000 ransom.

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[34] "SOMALIA: Saracen trained forces surround the home of former Somali Prime Minister in Bosaso", *Horseed Media*, 17 January 2015. Available from http://horseedmedia.net/2012/10/31/somalia-saracen-trained-forces-surround-the-home-of-former-somali-prime-minister-in-bosaso/.

[35] SEMG interview in Nairobi with UNODC consultant John Steed, 19 August 2015. Steed visited Abdiweli Mohamed Ali "Gaas" during the period he was under house arrest.

[36] Jay Bahadur, *The Pirates of Somalia: Inside Their Hidden World* (New York: Vintage Books, 2011).

[37] Ibid.

38. Following the disbanding of SomCan in 2005, some of the company's former marines later turned to piracy on a more permanent basis, using their skills in maritime navigation and boarding operations to hijack foreign vessels.[38] The ranks of Somali pirates were further swelled by ex-marines trained by Hart Security, a UK company headed by a former SAS officer, Lord Richard Westbury, which had previously operated a Coast Guard in Puntland from 1999-2002.

39. SSS Ltd. only began operations in April 2015, and it is not yet clear if the company will experience the same unintended fallout that plagued the last two private Coast Guards in Puntland. The fact that the Puntland authorities are supplying the marines on board SSS Ltd'.s vessels should help mitigate the risk, since they are likely to serve the state rather than private interests. However, it remains problematic that a for-profit company responsible for providing maritime security to a regional authority should directly benefit from the sale of fishing licenses. As in the past, company officials may succumb to the temptation of selling illicit licenses to international clients, fuelling the cycle of corruption and conflict with local fishermen that helped prime the conditions for the explosion of Somali piracy in 2007 and 2008.

Anglo Somaliland Resources Ltd. in Somaliland

40. On 26 February 2015, Sir Tony Baldry, a former UK MP for Banbury, incorporated the company Anglo Somaliland Resources Ltd (ASR Ltd.) in the UK. In August 2015, the company signed a contract in Somaliland authorising the company to sell fishing licenses. This contract was the culmination of a series of attempts by Baldry to conduct business in Somalia stretching back to at least 2012, when he was still a member of the UK House of Commons. Baldry served as an MP from 1983 to 2015, when he stood down to pursue his business interests.

Somaliland agreement

41. In an April 2015 interview, Baldry informed the Monitoring Group of his intention to conduct business in Somaliland through the newly-incorporated ASR Ltd. Baldry stated that he was embarking on a "Coast Guard-related" project aimed at protecting Somaliland's fishing licensing system.[39] Baldry has since denied in multiple emails to the Monitoring Group that ASR Ltd. is involved in any Coast Guard project, but rather in a scheme aimed at "improving fisheries management" in Somaliland.[40] Baldry further told the Group that he was the "only person persevering in trying to help [the Somali people]".[41]

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[38] Ibid.

[39] SEMG interview with Tony Baldry in Oxford, 2 April 2015.

[40] Email from Tony Baldry to the SEMG, 1 August 2015.

[41] SEMG interview with Tony Baldry in Oxford, 2 April 2015.

42. On 21 April 2015, Baldry's business partner, Ian Fenwick, sent an email to Baldry and their other partners, with an attached photo of Fenwick posing with four Somali individuals in Hargiesa (this photo is attached in annex 2.3.b). The email read:

> Deal signed by the Minister of Fisheries and Marine Resources on my left. Followed by reception at the Presidential building with the Presidential Minister who welcomed me to Hargeisa and invited me to become a Business Ambassador for Somaliand *(sic)*.[42]

According to Baldry, this "deal" consisted of an MOU with the Somaliland Government "to help enhance Somaliland's sea fisheries".[43]

43. On 4 August 2015, ASR Ltd. signed a formal contract with the Somaliland Government granting the company the exclusive right to fish in Somaliland's territorial coastal waters, as well to sell licenses to third parties (see annex 2.3.c for a copy of the first page of this contract). In exchange, the Somaliland Government received a signing bonus of USD 500, and will receive USD 2,000 annually from ASR Ltd., plus 40 per cent of revenues from the sale of fishing licenses.

44. The Monitoring Group is highly concerned that that the granting of exclusive fishing rights to a foreign company may cause resentment among local fishermen and coastal communities. As in other regions of Somalia – particularly Puntland – such resentment has the potential to lead to the outbreak of violence between foreign fishing crews and local residents, and even to acts of piracy.

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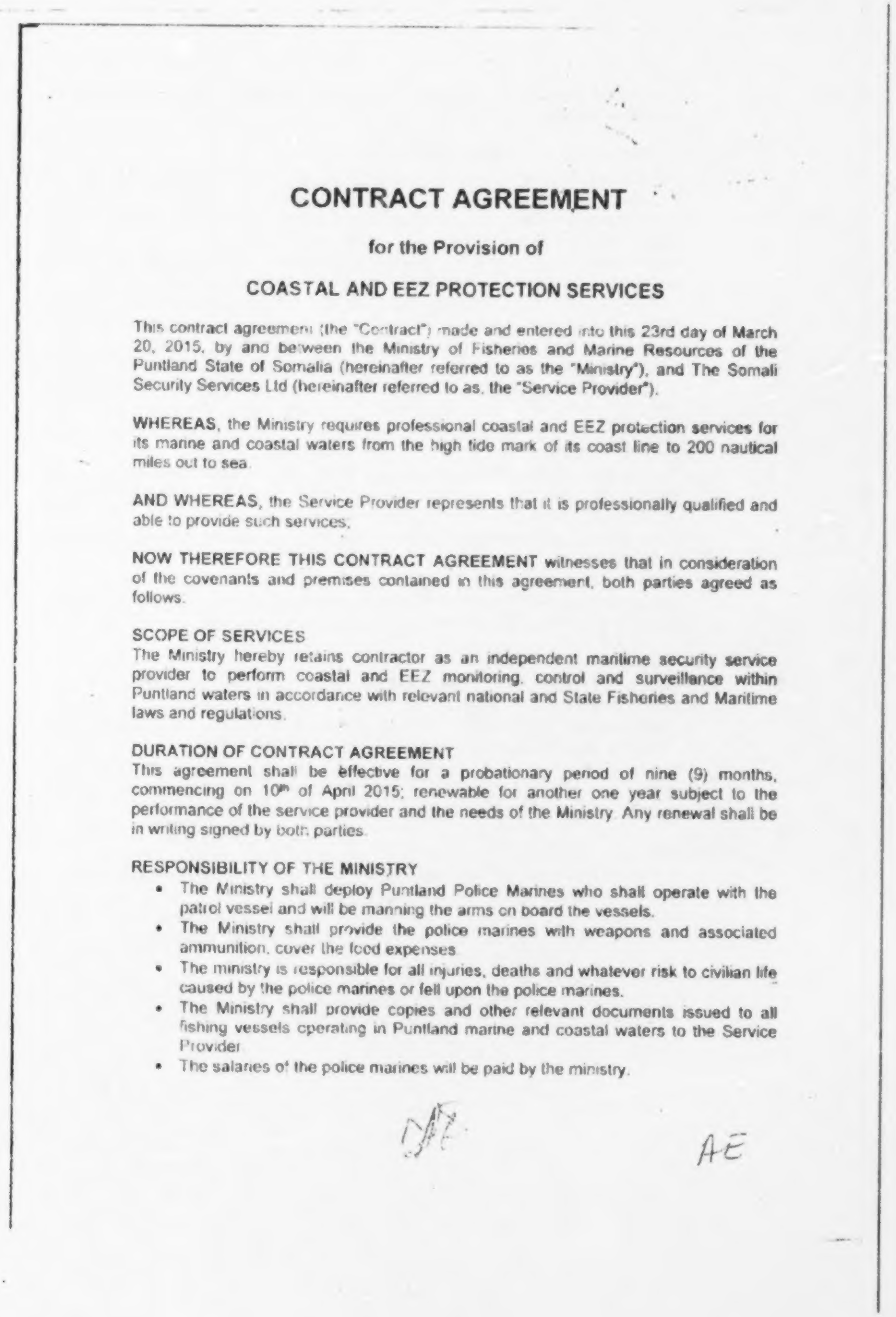
[42] Email on file with the Monitoring Group.

[43] Email from Tony Baldry to the SEMG, 1 August 2015.

Annex 2.3.a: Copy of 23 March 2015 contract between Somali Security Services Ltd. and the Puntland Government



CONTRACT AGREEMENT

for the Provision of

COASTAL AND EEZ PROTECTION SERVICES

This contract agreement (the "Contract") made and entered into this 23rd day of March 20, 2015, by and between the Ministry of Fisheries and Marine Resources of the Puntland State of Somalia (hereinafter referred to as the "Ministry"), and The Somali Security Services Ltd (hereinafter referred to as, the "Service Provider").

WHEREAS, the Ministry requires professional coastal and EEZ protection services for its marine and coastal waters from the high tide mark of its coast line to 200 nautical miles out to sea.

AND WHEREAS, the Service Provider represents that it is professionally qualified and able to provide such services;

NOW THEREFORE THIS CONTRACT AGREEMENT witnesses that in consideration of the covenants and premises contained in this agreement, both parties agreed as follows.

SCOPE OF SERVICES
The Ministry hereby retains contractor as an independent maritime security service provider to perform coastal and EEZ monitoring, control and surveillance within Puntland waters in accordance with relevant national and State Fisheries and Maritime laws and regulations.

DURATION OF CONTRACT AGREEMENT
This agreement shall be effective for a probationary period of nine (9) months, commencing on 10th of April 2015; renewable for another one year subject to the performance of the service provider and the needs of the Ministry. Any renewal shall be in writing signed by both parties.

RESPONSIBILITY OF THE MINISTRY

- The Ministry shall deploy Puntland Police Marines who shall operate with the patrol vessel and will be manning the arms on board the vessels.
- The Ministry shall provide the police marines with weapons and associated ammunition, cover the food expenses.
- The ministry is responsible for all injuries, deaths and whatever risk to civilian life caused by the police marines or fell upon the police marines.
- The Ministry shall provide copies and other relevant documents issued to all fishing vessels operating in Puntland marine and coastal waters to the Service Provider.
- The salaries of the police marines will be paid by the ministry.

AE

- The fishing license will be issued by the Ministry and no other outfit shall be entitled to issue or renew fishing licenses.

RESPONSIBILITY OF THE SERVICE PROVIDER

- The Service Provider shall organize and maintain surveillance and protection of the seas under the jurisdiction of the Puntland State of Somalia.
- The Service Provider shall provide suitable vessels to patrol the Puntland waters encompassing both the Gulf of Aden and the Indian Ocean.
- The Service Provider shall provide supervisors, vessel crew, necessary personnel, and logistical requirements for the life of this agreement.
- The Service Provider shall be accountable to the Ministry but its responsibilities are limited to marine surveillance and patrolling of the waters exclusively.
- The Service Provider's patrol vessels shall have the ability to board, inspect and detain or arrest appropriately any vessels or crafts. This includes the vessels' operators and crew or any other persons onboard suspected of failing to comply with the provisions of a license issued by the Ministry or caring out any illegal activities within the territorial waters or EEZ.
- The patrol vessel will fly the national flag of Somalia.
- The Service Provider shall immediately inform the Ministry whenever a vessel has been arrested and arrange to have it towed, at vessel owner's expense, to the port of Bossaso, for further appropriate legal actions.
- All investment and operational costs of the patrol vessels shall be borne by the Service Provider.
- Patrol vessels will assist in salvage operations if called upon to do so.
- The Service provider shall at all times not perform/engage in any fishing activities in Puntland waters while this contract agreement remains valid.

REVENUE SHARING

- Payments received from the licenses issued or fines imposed will be made to Puntland State Bank. Through the Ministry treasury office once the Service Provider share equivalent to 30% be immediately transferred to the Service Provider's account at Dahabshiil Bank.
- All fishing license fees earned by the Ministry and all revenue earned from fines imposed on arrested vessels will be shared by the Ministry and the Service Provider on 70% and 30% basis, respectively.

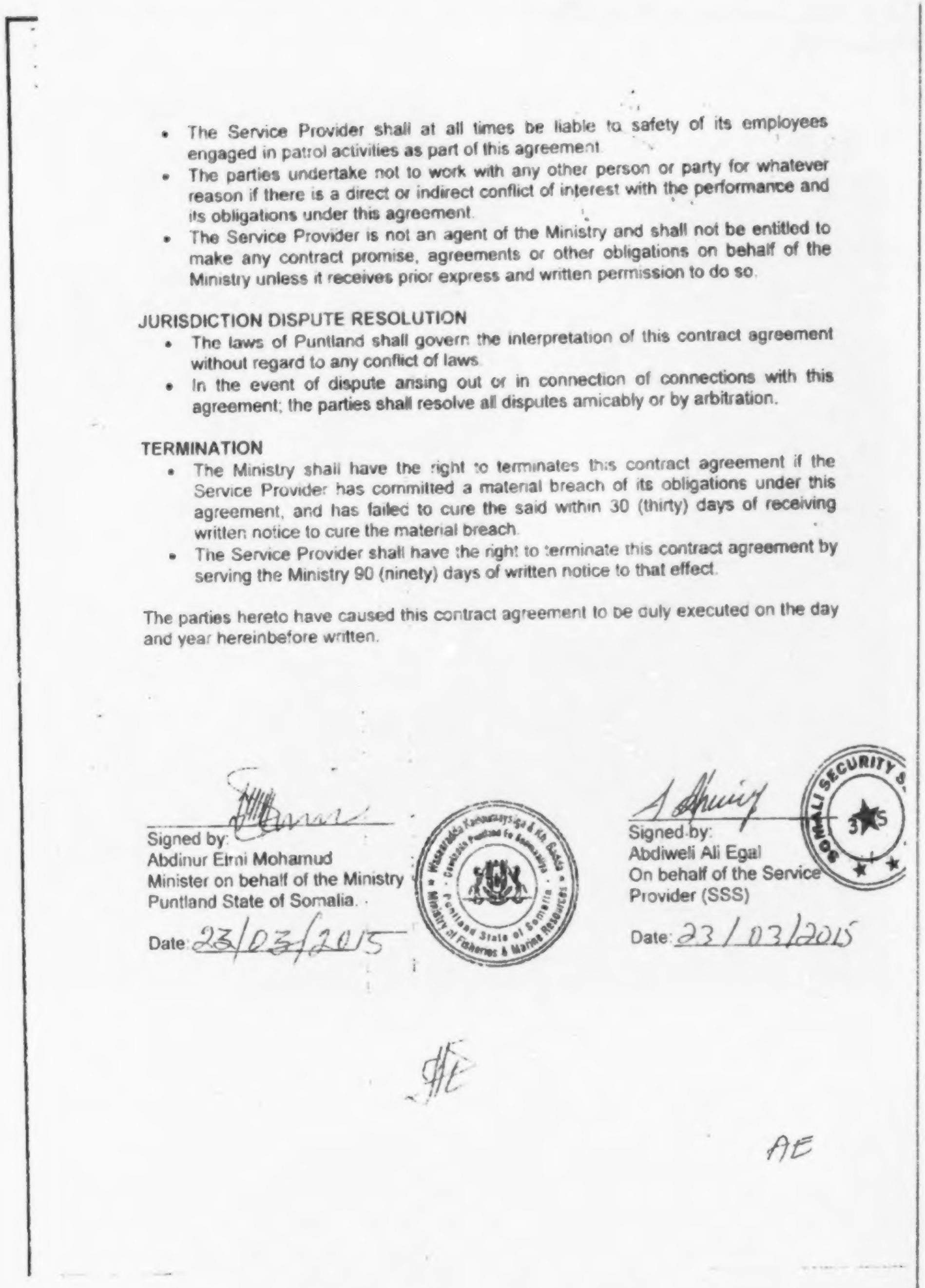
GENERAL

- Seaport or dock fees will be waived for the Service Provider's vessels engaged in patrol activities during the life of this agreement.
- Any notices given pursuant to this agreement shall be in writing and shall be served personally, by registered or recorded delivery mail, email or by fax.

RELATIONSHIPS BETWEEN THE PARTIES

- For the purposes of this contract agreement, the service provider shall at all times act as an independent contractor to the Ministry.

AE



- The Service Provider shall at all times be liable to safety of its employees engaged in patrol activities as part of this agreement.
- The parties undertake not to work with any other person or party for whatever reason if there is a direct or indirect conflict of interest with the performance and its obligations under this agreement.
- The Service Provider is not an agent of the Ministry and shall not be entitled to make any contract promise, agreements or other obligations on behalf of the Ministry unless it receives prior express and written permission to do so.

JURISDICTION DISPUTE RESOLUTION

- The laws of Puntland shall govern the interpretation of this contract agreement without regard to any conflict of laws.
- In the event of dispute arising out or in connection of connections with this agreement; the parties shall resolve all disputes amicably or by arbitration.

TERMINATION

- The Ministry shall have the right to terminates this contract agreement if the Service Provider has committed a material breach of its obligations under this agreement, and has failed to cure the said within 30 (thirty) days of receiving written notice to cure the material breach.
- The Service Provider shall have the right to terminate this contract agreement by serving the Ministry 90 (ninety) days of written notice to that effect.

The parties hereto have caused this contract agreement to be duly executed on the day and year hereinbefore written.

Signed by:
Abdinur Elmi Mohamud
Minister on behalf of the Ministry
Puntland State of Somalia.
Date: 23/03/2015

Puntland State of Somalia
Ministry of Fisheries & Marine Resources

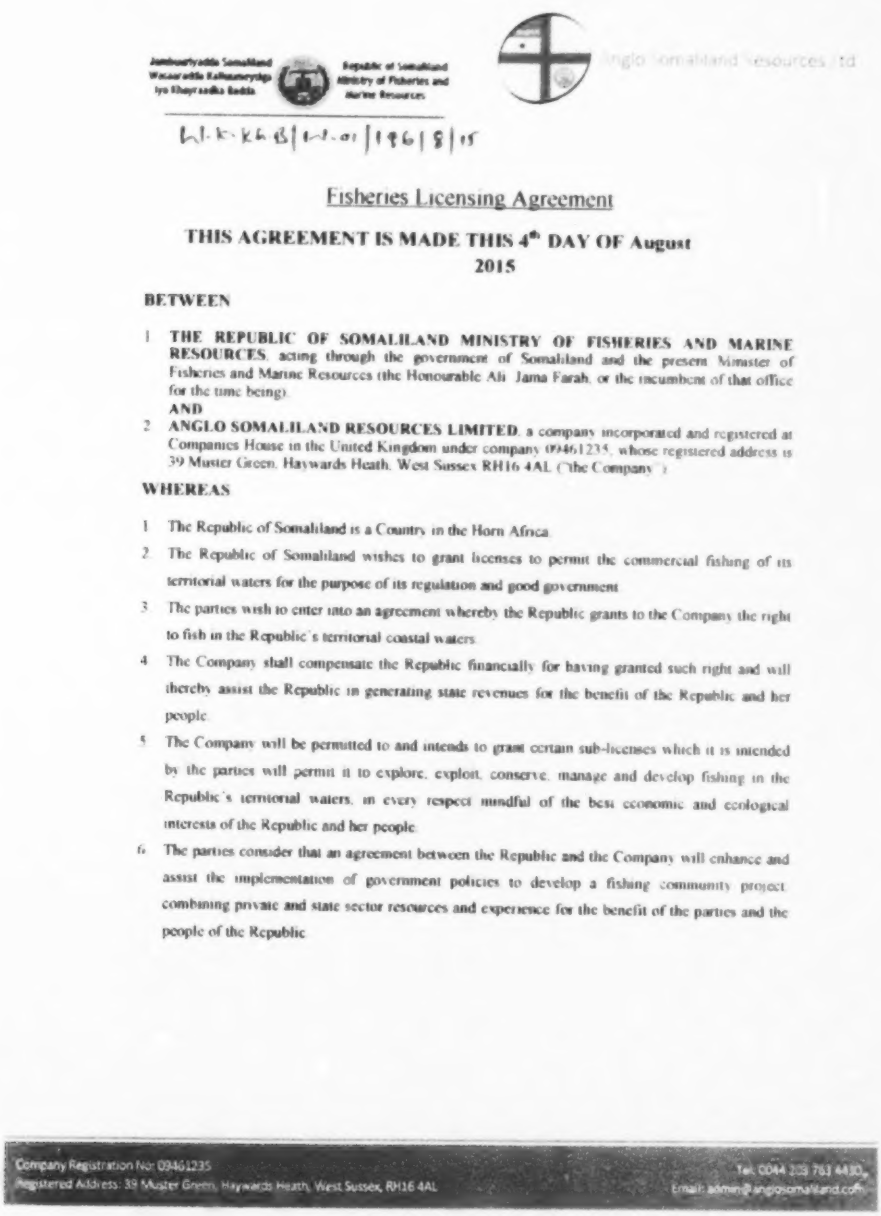
Signed by:
Abdiweli Ali Egal
On behalf of the Service Provider (SSS)
Date: 23 / 03 /2015

AE

Annex 2.3.b: Ian Fenwick in Somaliland to sign the Anglo Somaliland Resources Ltd. MOU (second from right)

Jamhuuriyada Somaliland
WASAARADDA KALLUUMAYSIGA
IYO KHAYRAADKA BADDA
WAX KU QABTAAN

Annex 2.3.c: First page of the 4 August 2015 contract between Anglo Somaliland Resources and the Government of Somaliland



Jamhuuriyadda Somaliland
Wasaaradda Kalluumeysiga
iyo Kheyraadka Badda

Republic of Somaliland
Ministry of Fisheries and
Marine Resources

Anglo Somaliland Resources Ltd

W.K.KKB/W.01/196/8/15

Fisheries Licensing Agreement

THIS AGREEMENT IS MADE THIS 4th DAY OF August 2015

BETWEEN

1 **THE REPUBLIC OF SOMALILAND MINISTRY OF FISHERIES AND MARINE RESOURCES**, acting through the government of Somaliland and the present Minister of Fisheries and Marine Resources (the Honourable Ali Jama Farah, or the incumbent of that office for the time being)

AND

2 **ANGLO SOMALILAND RESOURCES LIMITED**, a company incorporated and registered at Companies House in the United Kingdom under company 09461235, whose registered address is 39 Muster Green, Haywards Heath, West Sussex RH16 4AL ("the Company").

WHEREAS

1 The Republic of Somaliland is a Country in the Horn Africa.

2 The Republic of Somaliland wishes to grant licenses to permit the commercial fishing of its territorial waters for the purpose of its regulation and good government.

3 The parties wish to enter into an agreement whereby the Republic grants to the Company the right to fish in the Republic's territorial coastal waters.

4 The Company shall compensate the Republic financially for having granted such right and will thereby assist the Republic in generating state revenues for the benefit of the Republic and her people.

5 The Company will be permitted to and intends to grant certain sub-licenses which it is intended by the parties will permit it to explore, exploit, conserve, manage and develop fishing in the Republic's territorial waters, in every respect mindful of the best economic and ecological interests of the Republic and her people.

6 The parties consider that an agreement between the Republic and the Company will enhance and assist the implementation of government policies to develop a fishing community project combining private and state sector resources and experience for the benefit of the parties and the people of the Republic.

Company Registration No: 09461235
Registered Address: 39 Muster Green, Haywards Heath, West Sussex, RH16 4AL
Tel: 0044 203 763 4430,
Email: admin@anglosomaliland.com

Annex 2.4: Hijackings of the Iranian dhows FV *Siraj* and FV *Jaber* by pirates linked to Mohamed Osman Mohamed "Gafanje"

(STRICTLY CONFIDENTIAL)[*]

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[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 2.5: Soma Oil & Gas Holdings Limited

45. As a case study illustrating the need for the establishing of strong public institutions prior to the development of Somalia's extractives sector, the Monitoring Group has conducted an extensive investigation into the operations of Soma Oil & Gas Holdings Limited (Soma). Soma is an extractives exploration company that secured a lucrative contract in August 2013 with the Federal Government of Somalia (FGS) to conduct seismic surveying off the country's southern and central coast.[44] The contract awarded Soma the subsequent right to exploit 12 offshore oil and gas blocks (totalling 60,000 km^2) of its own choosing.

46. The Group has obtained evidence[45] demonstrating that Soma has been making regular payments since June 2014 to civil servants in the Ministry of Petroleum and Mineral Resources (the Ministry), some of whom were instrumental in both securing the company's initial contract, and negotiating subsequent agreements. A "Capacity Building Agreement" was signed by Soma and the Ministry mainly to channel these payments. The evidence collected by the Monitoring Group demonstrates that this Capacity Building Agreement created a serious conflict of interest, in a number of cases appearing to fund systematic payoffs to senior ministerial officials. Pursuant to paragraph 2 of resolution 2002 (2011) and paragraph 2 (c) of resolution 2060 (2012)[46], the Monitoring Group will describe acts that undermine Somali public institutions through corruption and will demonstrate how:

- The Capacity Building Agreement was likely part of a *quid pro quo* arrangement, whereby the Ministry would protect Soma's contract from the potential negative consequences of a forthcoming review by the Financial Governance Committee (FGC), a body chaired by the FGS Minister of Finance and tasked with reviewing Government contracts;

- as a possible further *quid pro quo,* Ministry officials arranged to extend the offshore area in which Soma is permitted to conduct seismic surveying ("Evaluation Area") and later, at Soma's behest, began to renegotiate the Production Sharing Agreement (PSA) for the company's future blocks – all while on Soma's payroll;

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[44] Soma Oil & Gas Holdings Limited is a UK-registered company incorporated on 26 April 2013, and chaired by Lord Michael Howard, former leader of the UK Conservative Party.

[45] The Monitoring Group has obtained access to numerous original documents detailing agreements between Soma and the FGS Ministry of Petroleum and Mineral Resources. The Group has also viewed extensive electronic correspondence involving Soma and the Ministry, and has further corroborated its investigations through numerous testimonies from present and former Ministry and other FGS officials, oil and gas experts, legal experts, members of development agencies, members of the diplomatic community, journalists, and others. Confidential electronic correspondence is cited below in italics.

[46] In paragraph 2 of resolution 2002 (2011), the Security Council expanded the scope of prohibited acts that threaten the peace, security or stability of Somalia to include the misappropriation of public financial resources. This is reiterated in paragraph 2 (c) of resolution 2060 (2012).

- senior civil servants awarded themselves 'salaries' pursuant to spuriously drafted contracts for positions they already held;

- at least six officials on Soma's 'capacity building' payroll simultaneously drew FGS civil servant salaries;

- Soma transferred the first instalment of 'capacity building' funds to the Ministry before performing internal due diligence on the individuals who were to receive salary payments. The company continued to transfer funds even once their identities became known to the company and;

- Soma paid close to half a million dollars to an ostensibly independent legal advisor to the Ministry, J. Jay Park.

47. The Monitoring Group further describes how the misuse of 'capacity building' in the Soma context fits within a broader pattern of misconduct and misappropriation at the Ministry. The Monitoring Group has obtained evidence, for example, of the Ministry's attempts to persuade at least one other oil and gas company to pay 'salaries' to its staff. Ministry staff also diverted payments from another company into a privately held ministerial bank account in contravention of FGS regulations – and indeed attempted to have Soma direct its funding into this account.

48. The Monitoring Group's findings reinforce the rationale for its previous calls for the implementation of clear legal and policy frameworks governing the engagement of the extractives industry in Somalia. In particular the FGS should be encouraged to apply its existing legislation, especially the 2008 Petroleum Law, in the management of both current and future oil and gas contracts. As required by this legislation, it is critical to establish an independent Somali Petroleum Authority to serve as regulator for the industry. The Federal Parliament should also approve current, future contracts and authorisations – including the draft Soma PSA currently under consideration by the Ministry.

49. The Monitoring Group recognises the considerable potential of oil and gas discoveries in Somalia and in Somali waters, but also the threat to peace, security and stability posed by an unregulated extractives industry. The Group has previously highlighted both the risks of corruption in the sector, and the "shortcomings" in transparency and capacity of Somalia's petroleum institutions (S/2013/413 and S/2014/726). The Group will, therefore, again recommend a moratorium on all PSAs until the necessary arrangements and institutions are in place to manage the industry for the good of the Somali people.

Background to the Capacity Building Agreement[47]

50. The circumstances and chronology of events surrounding the Capacity Building Agreement are integral to an understanding of how an ostensibly positive arrangement for Somalia was in fact a scheme concocted by the Ministry, with Soma's acceptance, in the expectation of reciprocal benefits.

51. In a May 2013 interview, the former Minister for National Resources,[48] Abdirizak Omar Mohamed, asserted that the FGS "should wait until we have the right laws in place" before entering into agreements with oil and gas firms.[49] Three months later, on 6 August 2013, the FGS signed a Seismic Option Agreement (SOA) with Soma, in which the latter agreed to conduct a seismic survey within an area to be confirmed in a later "Reconnaissance Authorisation" agreement. On 9 January 2014, with the "Evaluation Area" agreed, the FGS formally entered into a Reconnaissance Authorisation agreement with Soma (see annex 2.5.a).

52. On 21 January 2014 Daud Mohamed Omar was appointed as FGS Minister of Petroleum and Mineral Resources. Fewer than two weeks later, on 2 March 2014, the original SOA with Soma was sent to the newly established Financial Governance Committee (FGC) for review.

53. On 5 March 2014 Soma made arrangements for Minister Omar, Farah Abdi Hassan, the Director General of the Ministry, and Dr. Abdullahi Haider Mohamed and J. Jay Park, advisors to the Ministry,

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[47] The inclusion of capacity building programmes in agreements between extractives companies and Governments of developing countries is relatively common. Each oil major that has signed a deal in Somalia (Royal Dutch Shell, Total S.A., Eni S.p.A., Chevron Corp., ConocoPhillips Co., and BP plc) offers local training and scholarship programmes in the developing countries in which it operates. However, having consulted with several independent experts, the SEMG has been unable to identify other cases where the regular payment of senior civil servants responsible for managing deals with oil and gas firms has been labelled "capacity building". Analogous payment practices, however, have been the subject of criticism: Royal Dutch Shell, Elf Aquitaine, Norsk Hydro and, most recently, Soco International, for example, have all been accused of impropriety with respect to the making of regular hidden payments to local security and/or Government officials in order to protect company interests. See Afua Hirsch and John Vidal, "Shell spending millions of dollars on security in Nigeria, leaked data shows", *The Guardian*, 19 August 2012. Available from http://www.theguardian.com/business/2012/aug/19/shell-spending-security-nigeria-leak; Global Witness, "Elf trial throws spotlight on oil and corruption", 17 March 2003. Available from https://www.globalwitness.org/archive/elf-trial-throws-spotlight-oil-and-corruption/; Global Witness, "Statoil Hydro's Libyan "corruption" scandal shows need for oil industry disclosure laws", 20 November 2008. Available from https://www.globalwitness.org/documents/14446/libya_oil_scandal_points_to_need_for_new_laws.pdf; Global Witness, "Virunga: UK company bankrolled soldiers accused of bribery and violence in quest for oil in Africa's oldest national park", 20 June 2015. Available from https://www.globalwitness.org/campaigns/democratic-republic-congo/soco-in-virunga/.

[48] The Ministry of National Resources was subsequently split into four successor ministries in January 2014, including the Ministry of Petroleum and Mineral Resources.

[49] Katrina Manson, "Somalia: Oil thrown on the fire", *The Financial Times*, 13 May 2013. Available from http://www.ft.com/cms/s/0/538e9550-b3e1-11e2-ace9-00144feabdc0.html#axzz3fm1LvjAB.

to stay at Nairobi's Fairmont Hotel from 9-13 March 2014 in order to hold meetings with the company (see annex 2.5.b for a photo of one of these meetings).

54. On 10 March 2014, Minister Omar signed a "First Amendment Agreement" to the 6 August 2013 SOA, which was subsequently transmitted to Soma on 22 March to be countersigned (see annex 2.5.c). The Agreement included a request for "capacity assistance in connection with the supporting work of the Government in relation to the seismic survey…" In a letter dated 15 March 2014 and also sent to Soma on 22 March, Minister Omar formally requested "that Soma provide financial support to the Government".

55. Specifically, Minister Omar requested support with:

a. rehabilitation of the Ministry's offices in Mogadishu;

b. furnishing and equipping the Ministry's office, including establishment of a data room;

c. the hiring and contracting of qualified technical staff and expert consultants and advisors, inside and outside of Somalia, including covering the costs of:

  i. salary or consulting fees;
  ii. benefits;
  iii. accommodation allowance; and,
  iv. business related travel;

d. training programs for Ministry staff;

e. Petroleum regime development programs focused on the following objectives:

  i. harmonization of Somalia's constitutional provisions governing petroleum and minerals issues;
  ii. development of petroleum policy, petroleum law, petroleum regulations, and model host government contracts; and
  iii. conferring and developing consensus with governments of regional member states; and

f. Other areas as may be agreed in writing by Government and Soma (see annex 2.5.d for a copy of this letter).

56. On 27 March 2014, the Director General of the Ministry, Farah Abdi Hassan, expressed annoyance over delays in Soma's response to the Ministry's request for capacity assistance, declaring in an email addressed to the Ministry's legal advisor, Jay Park, that the Ministry would not stand for Soma "questioning" or "delaying" the programme. He also warned that Soma's contractual agreements with the FGS, both past and prospective, would be subject to review if "assistance" were not provided: *"If the SOMA questions the assistance [to] the Ministry then so many things goes [sic] to review, while the parliament is asking to ratify the SOA agreement".*

57. On 17 April 2014, Director General Hassan wrote to two of Soma's directors, CEO Robert Sheppard and Hassan Khaire, informing them that the Natural Resources Subcommittee of the FGS Parliament had requested a copy of the 6 August 2013 SOA for review. In the correspondence, Hassan again suggested a link between the provision of 'capacity building' and the protection of the Soma SOA from official review: *"[w]hy don't you sign the [First Amendment Agreement] and return, because, I am sure it will protect the [SOA] agreement"*. The very same day, Sheppard sent a formal letter to Minister Omar confirming Soma's desire to move ahead with the agreement:

> Soma Oil & Gas understands your request for support in regards to capacity building at the Ministry. In the next few days, I will be writing a separate letter to you outlining how Soma Oil & Gas proposes to support the Ministry in this regard.

58. Three days later, on 20 April 2014, Soma followed through on its pledge, and a draft text of the Capacity Building Agreement was sent to Director General Hassan for his review.

59. Three days after receipt of this draft agreement, the FGC "Confidential Assessment" of the Soma SOA arrived at the Ministry. While specific improvements to the SOA were recommended – alongside more general concerns raised regarding "contracting in the oil and gas sector as a whole" – the FGC did not make recommendations that threatened the validity of the Soma deal.[50]

60. The Capacity Building Agreement ("the Agreement") was signed by the Minister on 27 April 2014 and by Robert Sheppard on 15 May 2014 (see annex 2.5.e). In the Agreement Soma pledged to cover the salary costs, up to USD 5,000 per month each, for a maximum of six "qualified technical staff, consultants and advisors, inside and outside of Somalia" over a 12-month period (totalling USD 360,000). Soma also committed to "pay the cost of office equipment, transportation, and other working tools which shall not exceed lump sum of [USD 40,000]". The Agreement therefore capped the total capacity support to be provided by Soma, including salary payments, at USD 400,000. The Agreement did not include, however, any provision for funding of training or petroleum regime development programmes, as had also been requested in the Ministry's letter of 15 March 2014.

61. Among the conditions of the Agreement was a requirement for the Ministry to submit monthly written reports to Soma, providing the names, terms of reference, and employment contracts for each proposed staff member. Critically, the Agreement prohibited the Ministry from contracting any "connected person" within the framework of the programme. "Connected person" was defined as "any person, company, other organisation or legal entity directly or indirectly controlled by any

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[50] Of the eight contracts and concessions the FGC had reviewed by January 2015, Soma's was the only contract on which "no action" was taken. Others were "overtaken by events" (Simatech International), "withdrawn as duplicative" (TGS-NOPEC Geophysical Company ASA), "restructured and allegedly signed" (CGG/Robertson GeoSpec International), "considered for cancellation" (Somalia-FishGuard Ltd.), "under investigation" (AMO Shipping Company Ltd.), or "under discussion" (Albayrak Turizm Inşaat Ticaret A.Ş and Favori LLC). Quoted from the "FGC Reviews of Public Sector Contracts and Concessions" report, 31 December 2014.

member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government".

62. On 27 April 2015, Soma signed an extension of the Agreement with the Ministry, prolonging the duration of the programme for an additional six months, from April to September 2015.[51] Under the extension, Soma agreed to provide further "capacity support payments" of USD 30,000 per month, equalling a total over six months of USD 180,000.

Payments

63. On 22 May 2014 Soma's CFO, Philip Wolfe, sent the Director General a template invoice for the Ministry to submit. The next day, a USD 70,000 invoice for the first instalment of the 'capacity building' funds, signed by Director General Hassan and Deputy Director General Jabril Mohamoud Geeddi – who both later received salaries themselves under the Agreement – was returned to Soma (see annex 2.5.f).

64. Following receipt of the first instalment of the Soma funds in the Ministry's Central Bank of Somalia (CBS) account, Director General Hassan attempted to persuade Soma to circumvent the CBS when making future transfers. Such an arrangement would be in flagrant violation of FGS Ministry of Finance directives, which require that all FGS revenue be channelled through the Treasury Single Account at the CBS. On 29 June 2014, Hassan emailed Soma CEO Robert Sheppard and CFO Philip Wolfe explaining,

> *I am thinking to change the route or have an account from another bank. We realized how things gets [sic] late if we didn't get alternative way, there are number of private companies which are easier to use and more efficient than the central bank.*

65. Wolfe refused the Director General's suggestion, informing him that Soma would continue to route 'capacity building' monies to the CBS for purposes of transparency.

66. Soma transferred a total of USD 400,000 for the Capacity Building Agreement in three instalments to the Ministry's CBS account. The company also transferred an additional USD 90,000 instalment in May 2015, the first payment pursuant to the extension of the Agreement on 27 April 2015:

1. USD 70,000: receipt confirmed by the Ministry on 30 June 2014;
2. USD 150,000: receipt confirmed by the Ministry on 17 August 2014;
3. USD 180,000: receipt confirmed by the Ministry on 13 November 2014;
4. USD 90,000: receipt confirmed by the Ministry on 28 May 2015.[52]

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[51] Letter dated 24 July 2015 from Soma to the Monitoring Group, in response to the Group's email queries of 16 July 2015.

[52] Letter from Soma to the Monitoring Group, 24 July 2015.

67. The Monitoring Group has obtained a 'salary chart' sent to the Ministry by Soma in March 2015. This chart details the 'capacity building' payments Soma made (totalling USD 295,800) to 14 ministerial employees from March 2014 to the end of February 2015, with projections of future payments continuing up to June 2015 (see annex 2.5.g).[53] The 14 employees listed on the salary chart, and the amounts they are listed as having received, are:

Name	**Title(s)**	**Received from Soma as of February 2015**
Farah Abdi Hassan	-Director General	USD 36,000
Jabril Mohamoud Geeddi	-Deputy Director General Director of Administration & Finance Department -Senior Management Advisor	USD 36,000
Mohamed Ali-nur Hagi	-Permanent Secretary to the Prime Minister -Director of Planning & Development Department Senior Resource Economist	USD 33,000
Dr. Abdulkadir Abiikar Hussein	-Director of Exploration Department -Senior Petroleum Geologist	USD 30,000
Hussein Ali Ahmed	-Managing Director of the Somalia Petroleum Corporation (SPC) -Director of Oil Management Department -Senior Economic Advisor	USD 16,000
Yusuf Hassan Isack	-Head of Public Relations -Media Expert	USD 24,000
Abdinor Mohamed Ahmed	-Media Coverage -Reporter -Public Relations	USD 16,000
Abdullahi Mohamed Warfaa	-International Relations	USD 16,000

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[53] While the salary chart lists payments dating back to March 2014, the first instalment of Soma's 'capacity building' funds did not arrive at the Ministry until June 2014. Thus all chart payments prior to June 2014 represent backdated amounts paid as 'arrears' to Ministry officials.

Mohamed Yousuf Ali	-Director of Legal Affairs Department -Senior Legal Expert	USD 32,000[54]
Dr. Abdi Mohamed Siad	-Senior Advisor -Mineralogist	USD 32,000[55]
Leila Ali Ahmed	-Administration Assistant	USD 4,200
Dr. Abdullahi Haider Mohamed	-Senior expert &Team Leader -FGS Advisor on Oil & Gas -Diplomat	USD 15,000
Abdirzak Hassan Awed	-Personal Assistant	USD 4,000
Farah Ahmed Isma'il	-Personal Assistant	USD 1,600

Double dipping

68. The Monitoring Group has been able to confirm, through information provided by the FGS Ministry of Finance and the Ministry of Petroleum and Mineral Resources itself that at least six Ministry officials paid by Soma under the Capacity Building Agreement concurrently drew civil servant salaries from the FGS:

1. Farah Abdi Hassan
2. Jabril Mohamoud Geeddi
3. Mohamed Ali-nur Hagi
4. Abdulkadir Abiikar Hussein
5. Hussein Ali Ahmed
6. Leila Ali Ahmed[56]

69. The Monitoring Group has been unable to find evidence that the Capacity Building Agreement was reflected in the 2014 FGS national budget. When contacted by the Monitoring Group, the Minister of Finance, H.E. Mohamed Aden, stated that he was unaware of a privately funded capacity building programme in any FGS ministry, informing the SEMG that "[a]s far as I am aware there is no private capacity injection programs. All capacity injection programs are through multitrust and/or bilateral donors".[57] Soma did not directly respond to a question from the Monitoring Group as to

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[54] Mohamed Yousuf Ali claimed in correspondence with the SEMG that he only received a total of USD 4,000 of the USD 32,000 earmarked for him.

[55] Abdi Mohamed Siad similarly claimed in correspondence with the SEMG that he only received a total of USD 4,000 of the USD 32,000 earmarked for him.

[56] The Monitoring Group notes with appreciation the cooperation of the FGS Minister of Finance, H.E. Mohamed Aden, in supplying this information.

[57] Email to the SEMG from Minister Aden, 21 May 2015.

whether the company had notified the Ministry for Finance about the Capacity Building Agreement, stating only that "Soma signed the Capacity Building Agreements with the Ministry of Petroleum & Mineral Resources".[58]

Profiles of officials who received payments from Soma

70. The Monitoring Group has compiled profiles, below, of the officials who received payments under Soma's Capacity Building Agreement. A number of these officials – including the Director General of the Ministry, the Deputy Director General, and the Permanent Secretary to the FGS Prime Minister – occupy positions in which they routinely take decisions directly bearing on the company's financial interests in Somalia. As such, their receiving payments from Soma represented a clear conflict of interest.

71. In addition, three individuals listed on Soma's salary chart have told the Monitoring Group that they only received a fraction of the amount allocated to them on paper. One alleged recipient of USD 28,000 in 'missing' payments has asserted that he does not recognise the signature on the payslip receipt provided to him for inspection by the Monitoring Group. It is not yet clear to the Group who signed for or received these monies.

Farah Abdi Hassan

Director General of the Ministry of Petroleum and Mineral Resources

72. Farah Abdi Hassan was appointed Director General of the then-Ministry of National Resources in July 2013, and has retained this position since its successor ministry, the Ministry of Petroleum and Mineral Resources, was created in January 2014. As Director General, Hassan served as the Ministry's primary point of contact for Soma and other oil and gas firms, affording him a great deal of influence. An April 2014 memo from Minister Omar, seen by the Monitoring Group, stipulated that Hassan was to be "the lead contact and the focal point of the Ministry in all aspects of communications".[59]

73. Hassan was present for negotiations over the First Amendment Agreement in Nairobi in March 2014. In May 2014 Hassan co-signed, with Jabril Mahamoud Geeddi, the first invoice for the programme. He then proceeded to sign a new contract for his existing position – formulated by Mohamed Ali-nur Hagi (see below) and countersigned by Minister Omar – backdated to March 2014 (see annex 2.5.h).

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[58] S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

[59] This memo was attached in a 13 April 2014 email from Mohamed Ali-nur Hagi to Farah Abdi Hassan.

74. Hassan was paid USD 3,000 per month under the Capacity Building Agreement, and by February 2015 had received a total of USD 36,000. According to the FGS Ministry of Finance, Hassan also draws a civil servant monthly salary of USD 1,235. Over the course of one year, therefore, Soma made monthly payments to the most senior civil servant in the Ministry equivalent to almost triple his Government salary.

Dr. Abdullahi Haider Mohamed
Senior expert & Team Leader
FGS Advisor on Oil and Gas

75. Between October 2014 and February 2015, Dr. Abdullahi Haider Mohamed held the position of "Senior expert & Team Leader" at the Ministry, and was paid a total of USD 15,000 through Soma's Capacity Building Agreement. Haider was due to receive an additional USD 9,000 up to April 2015.

76. The SEMG's 2014 final report (S/2014/726) identified Haider as a special advisor to FGS President Hassan Sheikh Mohamud and one of two "key architects" of the Soma deal.[60] The SEMG's current investigation into Haider's role corroborates this assessment. According to a former advisor to the Ministry, negotiations over the Soma deal were conducted by Haider, Ministry legal advisor Jay Park, and then-FGS petroleum minister Abdirizak Omar Mohamed during the Somalia conference in London in May 2013.[61] In a 1 July 2015 letter to the SEMG, Soma acknowledged that Haider "represented the Federal Government…in the negotiations around the Seismic Option Agreement that was signed in August 2013".[62]

77. Haider's influence in the Ministry extended beyond the Soma portfolio: on 9 August 2013, three days after the Soma SOA was signed, Patrick Molliere, a former oil executive and at the time an advisor to the Ministry, received an email from the Ministry's interlocutor at Royal Dutch Shell plc, William Sevier: *"Hope all is well. We have been advised to deal with Dr Haider wit [sic] cc to Minister"*.[63]

78. Since 2010, Haider has been referred to interchangeably as a presidential, ministerial, or governmental advisor on oil and gas. A regional news service stated that Haider "has become *de facto*

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[60] See S/2014/726, annex 5.1. The 2014 report also links Dr. Abdullahi Haider Mohamed to Musa Haji Mohamed "Ganjab", a former advisor to FGS President Hassan Sheikh Mohamud accused by the SEMG of ties to Al-Shabaab and of the diversion of recovered overseas FGS assets. Haider served as Director General of "Ganjab's" joint Turkish-Somali company, "Turksom", which was involved in a project to build and operate a fuel distribution business in Mogadishu, as well as secure Turkish investments in Somalia.

[61] 23 September 2013 email from Patrick Molliere to an oil executive, provided to the SEMG by Molliere. Molliere served as Special Advisor to the Government for Petroleum Affairs from October 2005 to August 2013, and was instrumental in drafting the federal Petroleum Law of 2008.

[62] S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

[63] Email provided to the SEMG by Patrick Molliere.

the privileged interlocutor for international oil organisations".[64] Haider's LinkedIn profile currently identifies him as a "Senior Adviser at Commission for Petroleum & Mineral Resources" and previously as a "Senior Adviser, Oil and Gas" from 2010-2014.[65] Indicative of his status within the FGS, Haider carries a diplomatic passport, which lists his occupation as "Diplomat" (see annex 2.5.j for a copy of Haider's diplomatic passport).

79. As recently as April 2015, during an oil and gas conference – after his tenure as "Senior expert & Team Leader" at the Ministry had come to an end – Haider was again being presented as a 'senior advisor' to the FGS.[66] At the conference, which took place in London from 27-28 April 2015, Haider conducted side meetings with industry executives, at which the Minister was not present.[67]

80. Prior to, during, and after the period when he received payments via the Soma Capacity Building Agreement, Haider was in a position to exert significant influence on Government decisions directly bearing on Soma's business prospects in Somalia. In this context, his signing of a contract with the Ministry to serve as "Senior expert & Team Leader" was merely a temporary re-hatting of his already existing role, in order to facilitate his receiving payments from Soma.

Mohamed Ali-nur Hagi
Permanent Secretary to the Prime Minister
Director of Planning & Development Dept / Senior Resource Economist

81. Prior to joining the Ministry in April 2014, Mohamed Ali-nur Hagi served as Minister of Planning for Galmudug regional authority. From April 2014 to February 2015, Hagi received a total of USD 33,000 from Soma's Capacity Building Agreement. According to the salary chart Hagi was also due an additional USD 3,000 for the month of March 2015.

82. Internal ministerial correspondence shows that Hagi drafted his own employment contract, which subsequently became the template for each subsequent contract signed by payees of the Capacity Building Agreement. Hagi also drafted the terms of reference for his own position, "Director of Planning and Development Department & Senior Resource Economist", as well as that of Dr. Abdullahi Haider Mohamed ("Senior expert & Team Leader").

83. Since at least 9 February 2015, Hagi has served as the Permanent Secretary to the FGS Prime Minister, Omar Abdirashid Shermarke. However, Soma continued to pay Hagi once he had become

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[64] African Intelligence, No. 1381, 6 June 2014.

[65] Available from https://www.linkedin.com/pub/abdullahi-haider/87/711/723. Accessed 24 July 2015.

[66] James Ball and Harry Davis, "Where there is oil and gas there is Schlumberger", *The Guardian*, 18 May 2015. Available from http://www.theguardian.com/environment/2015/may/18/where-there-is-oil-and-gas-there-is-schlumberger.

[67] Monitoring Group's interviews with three journalists and an oil and gas analyst who were present at the April conference, June 2015.

the prime minister's top staffer. Hagi confirmed to the SEMG in July 2015 that he had received 'capacity building' salary payments up to the end of February 2015;[68] Soma's salary chart shows that he was due to be paid up to the end of March.

84. Hagi has provided the Monitoring Group with a copy of a decree marking his appointment as Permanent Secretary, dated 9 February 2015 and signed by Prime Minister Shermarke.[69] However, an 11 January 2015 email from Director General Hassan to seven other senior members of the Ministry makes reference to *"A-Mohamed Hagi, the PS of office of the Prime minister"*. This reference suggests that Hagi may have been serving unofficially as Prime Minister Shermarke's Permanent Secretary as early as the beginning of January, and was apparently regarded as such by other Ministry officials.

Jabril Mohamoud Geeddi
Deputy Director General of the Ministry of Petroleum and Mineral Resources
Director of Administration & Finance Department / Senior Management advisor

85. Jabril Mohamoud Geeddi has been employed at the Ministry since January 2013, originally under the title of "Coordinator". Geeddi's employment contract, signed for the purposes of receiving a Soma 'capacity building' salary, lists his position as "Director of Administration & Finance Department & Senior Management advisor". However, his curriculum vitae, as well as extensive internal correspondence from the Ministry on file with the Monitoring Group, identifies him as the Deputy Director General of the Ministry.

86. In an email dated 30 July 2014, Geeddi provided a description, in the third person, of his function at the Ministry: "*Mr. Geddi is responsible for the administration and finance sector, of the Ministry, and he's full time employee who earns a standard salary of grade A from the government* plus bonus… [emphasis added]". In an interview with the Monitoring Group on 11 June 2014, Director General Hassan confirmed that Geeddi was the primary official responsible for the financial administration of the Ministry, including the management of the Capacity Building Agreement. As such, Geeddi was responsible for withdrawing 'capacity building' funds from the Ministry's CBS account (see annex 2.5.k for a sample of withdrawal slips with Geeddi's signature).

87. Geeddi is a close associate of Dr. Abdullahi Haider Mohamed. At the 2013 CWC Group-sponsored Somalia Oil and Gas Summit in London, held on 7 October 2013, Haider and Geeddi were observed to be "leading the minister around".[70] Following the summit, a dinner took place at principal Soma shareholder Basil Shiblaq's London restaurant, Maroush, which both Geeddi and Haider attended. Also present were Lord Michael Howard, the Chairman of Soma, Abdullahi Mohamed Ali

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[68] Email from Mohamed Ali-nur Hagi to the SEMG, 3 July 2015.

[69] Email attachment from Hagi to the SEMG, 7 July 2015.

[70] Monitoring Group's interview with a source who was present at the October summit, 4 June 2015.

'Sanbololshe', the FGS ambassador to the UK, petroleum minister Abdirizak Omar Mohamed, Soma CEO Robert Sheppard, CFO Philip Wolfe, Basil Shiblaq, Jay Park, as well as other individuals intimately involved in the Soma deal.[71]

88. From March 2014 to February 2015, Geeddi received salary payments totalling USD 36,000, or USD 3,000 per month, from Soma's Capacity Building Agreement. Over the same period, he also received an FGS civil servant salary of USD 1,135 per month.

Hussein Ali Ahmed
Managing Director of the Somalia Petroleum Corporation
Director of Oil Management Department / Senior Economic Advisor

89. Between July 2014 and February 2015, Hussein Ali Ahmed occupied the position of "Director of Oil Management Department & Senior Economic Advisor" in the Ministry. Both prior to and during his time on Soma's payroll, Ahmed served as Managing Director of the Somalia Petroleum Corporation (SPC), the national oil company that he was instrumental in establishing in 2007.

90. Ahmed held a series of prominent positions prior to heading up the SPC; from 2004-2007, he served as special advisor on oil and gas to former Somali Prime Minister Ali Mohamed Gedi, and as mayor of Mogadishu from 2001-2004. In 2007, Ahmed also headed the Somalia Petroleum Law Team, which was responsible for drafting the 2008 Petroleum Law, legislation that still remains in force.

91. Similar to other officials on Soma's payroll, therefore, Ahmed has a lengthy history of oil and gas postings in the Somali Government. While being paid by Soma as "Director of Oil Management Department & Senior Economic Advisor" to the Ministry, he concurrently held the title of SPC Managing Director, a position of influence with direct impact on Soma's interests in Somalia.

92. Between July 2014 and February 2015, Ahmed received a total of USD 16,000 from Soma's Capacity Building Agreement. According to the salary chart obtained by the Monitoring Group, as well as his employment contract with the Ministry, Ahmed was to receive an additional USD 8,000 up to June 2015. According to the FGS Ministry of Finance, Ahmed receives a civil servant salary of USD 1,135 per month.

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[71] Monitoring Group's interview with a source that was present at the dinner, 4 June 2015. The source provided the SEMG with a photograph alleged to have been taken during the dinner.

Dr. Abdulkadir Abiikar Hussein

Director of Exploration Department / Senior Petroleum Geologist

93. Dr. Abdulkadir Abiikar Hussein joined the Ministry in May 2014. Hussein possesses a Master's of Science degree in Engineering Geology and Geotechnics, and his employment contract with the Ministry lists his position as "Director of Exploration Department and Senior Petroleum Geologist".

94. Hussein received USD 30,000 from Soma's Capacity Building Agreement between May 2014 and February 2015. According to the salary chart obtained by the Monitoring Group, he was due to be paid an additional USD 6,000 up to April 2015.

95. In an interview with the Monitoring Group held on 11 June 2015, Director General Hassan confirmed that Hussein is a key member of a "negotiation team", responsible for reaching an agreement on production sharing with Soma (see discussion of the "Draft Production Sharing Agreement (PSA)" below), a function he exercised whilst receiving payments from Soma.

96. An email dated 27 April 2015 from Hussein to various members of the Ministry provided an outline of the agenda for the "Exploration Department", of which he is the director. One of the agenda items he listed, to be completed by September 2015, was *"[e]valuating PSAs submitted by farm-out partners of Soma Oil and Gas and signing them"*.

Abdullahi Mohamed Warfaa
Personal Assistant to the Minister
'International Relations'

97. While Abdullahi Mohamed Warfaa's employment contract defines his role at the Ministry as relating to "International Relations", in correspondences dated October and December 2014 he is referred to as the "personal assistant" to the Minister.

98. Between July 2014 and February 2015, Warfaa received a total of USD 16,000 through Soma's Capacity Building Agreement. According to the salary chart obtained by the Monitoring Group, as well as his employment contract with the Ministry, Warfaa was due an additional USD 8,000 up to June 2015.

Leila Ali Ahmed

Administration Assistant

99. Leila Ali Ahmed was employed as an "Administration Assistant" under the Capacity Building Agreement from July 2014 to February 2015, receiving a total of USD 4,200 according to the salary chart. However, from 8 August 2014 onwards Ahmed concurrently drew an FGS civil servant salary of USD 735 per month.

Possible Ghost Workers

100. The Monitoring Group has identified four officials on Soma's salary chart as possible ghost workers. Three of these individuals claim to only have worked at the Ministry for a fraction of the time indicated in the salary chart; the Group has been unable to confirm the very existence of a fourth.

Mohamed Yousuf Ali

Director of Legal Affairs Department / Senior Expert

101. Mohamed Yousuf Ali holds a Masters of Law degree, and his 'capacity building' employment contract designates his position within the Ministry as "Director of legal affairs Department & Senior expert". From July 2014 to February 2015, according to the salary chart, Ali collected USD 32,000 from Soma's Capacity Building Agreement.

102. On 13 October 2014 Director General Hassan suspended Ali's contract with the Ministry, citing the latter's inability to be present in Mogadishu due to personal reasons. Nonetheless, according to Soma's salary chart, Ali's salary payments continued until February 2015, despite the fact that he had not been physically present in Mogadishu since late August 2014.[72]

103. Ali informed the SEMG that he had only received one salary payment of USD 4,000 before the suspension of his contract, and that the Ministry never paid him an additional two months' salary owing.[73] If true, after July 2014 Ali became effectively a ghost worker at the Ministry, with the remaining USD 28,000 owing in his contract collected by an unknown third party. The SEMG has yet to determine who countersigned for Ali on his payslips, or where the funds subsequently ended up.

Abdi Mohamed Siad

Senior Advisor for the Ministry and Mineralogist

104. Dr. Abdi Mohamed Siad is a senior lecturer at the University of the Western Cape in the Republic of South Africa. He holds a PhD in Applied Geochemistry, making him the only technical expert whose employment under the Capacity Building Agreement does not represent a conflict of interest.

105. From July 2014 to February 2015, according to the salary chart, Siad collected USD 32,000 while serving in the position of "Senior Advisor for the Ministry and Mineralogist". However, Siad informed the Monitoring Group that he returned from Mogadishu to South Africa in August 2014, and subsequently gave notice of his resignation to Minister Omar and Director General Hassan on

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[72] Email from Mohamed Yousuf Ali to the SEMG, 29 June 2015.

[73] Email from Ali to the SEMG, 29 June 2015.

14 October 2014.[74] According to Siad, he was sent one month's salary from Hassan in the amount of USD 4,000, but received no subsequent payment.

106. The Monitoring Group sent Siad a 'capacity building' payslip dated 30 November 2014, allegedly displaying his signature; Siad confirmed that the signature was not his. The SEMG has yet to determine who forged Siad's signature on his payslips, or who collected the USD 28,000 remaining on his contract (see annex 2.5.1 for a copy of this forged payslip).

Abdirizak Hassan Awed

Personal Assistant for the Ministry

107. From November 2014 to February 2015, Abdirizak Hassan Awed was employed under the Capacity Building Agreement in the position of "Personal Assistant for the Ministry", collecting a total of USD 4,000. According to the salary chart, he was also slated to receive an additional USD 2,000 from March to April 2015.

108. In an email in the Somali language, Awed informed the Monitoring Group that he had been employed by the Ministry from November 2014-April 2015, but that the final two months of his salary payments had been "embezzled".[75]

Farah Ahmed Isma'il

Personal Assistant for the Director General's Office

109. According, to the salary chart, Farah Ahmed Isma'il received USD 1,600 from November 2014 to February 2015 under the Capacity Building Agreement, and was due another USD 800 from March-April 2015. As of 5 March 2015, the Ministry had not submitted Isma'il's curriculum vitae, employment contract, or passport copy to Soma, as required by Soma's internal due diligence mechanism (see "Due Diligence", below). The Monitoring Group has found no communications from or to Isma'il within the Ministry correspondence it has viewed. As a result, the Group has so far been unable to substantiate Isma'il's existence.

Abdinor Mohamed Ahmed and Yusuf Hassan Isack

110. The Monitoring Group continues to investigate the involvement of the two remaining officials on Soma's salary chart, Abdinor Mohamed Ahmed and Yusuf Hassan Isack.

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[74] Email from Dr. Abdi Mohamed Siad to the SEMG, 9 July 2015. Siad also forwarded his 14 October 2014 resignation email to the Group.

[75] Email from Abdirizak Hassan Awed to the SEMG, 13 July 2015.

Due diligence

111. In order to perform internal due diligence on the individuals being paid under the Capacity Building Agreement, Soma required the Ministry to provide a set of documents for each payee: curriculum vitae, employment contracts, passport copies, and signed payslips. Soma began transferring the 'capacity building' funds in June 2014, however, before it had received any of this documentation.[76] The Ministry began submitting the required documents in early August 2014, definitively revealing to Soma the identities of senior officials being paid, if the company had not already been aware.[77]

112. As of late as March 2015 – 11 months after the date of the Capacity Building Agreement – Soma's representative in Nairobi was still requesting the Ministry to deliver the remaining documents the company had demanded.

113. The Monitoring Group has found no evidence demonstrating that Soma questioned the Ministry's choice of payees, despite the fact that the Capacity Building Agreement explicitly prohibited the contracting of "connected persons" defined in the Agreement as "any person, company, other organisation or legal entity directly or indirectly controlled by any member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government". Instead, Soma proceeded to transfer the remaining 'capacity building' funds to the Ministry in two further instalments, accepting the Ministry's continued and absolute discretion in selecting the payees without prior notification. In response to the Monitoring Group's inquiries, Soma claimed that "no connected persons ever received payment pursuant to Soma's Capacity Building Agreement", despite being aware that both the Director General and Deputy Director General of the Ministry were on the company's payroll.[78]

114. Soma failed to provide the Monitoring Group with the names, positions, and other requested details of the individuals who received salary payments from its Capacity Building Agreement. In its response to the Monitoring Group's direct request, Soma provided the following:

> Soma Oil & Gas has put in place a robust Anti Bribery & Corruption Policy and Procedures. On this basis we have reviewed the passports, curriculum vitae and contracts of all the individuals who receive salary payments from the Ministry of

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[76] Correspondence between Soma and the Ministry dated June 2014 and seen by the Monitoring Group.

[77] Farah Abdi Hassan and Jabril Mohamoud Geeddi, respectively the Director General and Deputy Director General of the Ministry, were first to receive salaries from Capacity Building Agreement. According to Hassan, Soma was aware that both individuals would be on the company's payroll before the transfer of funds commenced. SEMG interview with Hassan, 11 June 2015.

[78] Letter dated 24 July 2015 from Soma to the Monitoring Group, in response to the Group's email queries of 16 July 2015.

Petroleum & Mineral Resources under the Capacity Building Programme, as well as reviewing the monthly payroll information.[79]

Soma's statements relating to the Capacity Building Agreement

115. Soma has acknowledged the existence of its Capacity Building Agreement on multiple occasions. In a press release dated 24 September 2014, Soma announced that the programme "will see the Company cover the salaries of a small number of experts, including geologists and geoscientists for a one-year period".[80] Soma's public relations firm, FTI Consulting Inc., further acknowledged the existence of the programme and payments on 22 October 2014:

> The $400,000 commitment from Soma will enable the Ministry to employ 12 qualified geologists, geoscientists and other professionals for a one year period – these are individuals who will be trained at internationally recognised institutions and are committed to making a contribution to their own country's development through the opening up of the hydrocarbons industry.[81]

116. Only three of the 14 ministerial officials paid by Soma possess advanced degrees in the fields of geology or geoscience. One of these, Dr. Abdulkadir Abiikar Hussein, was already on the FGS civil servant payroll during the period he received a 'salary' from Soma. A second, Dr. Abdi Mohamed Siad, held a position at the Ministry for barely a month before returning home (see "Abdi Mohamed Siad", above). The third, Dr. Abdullahi Haider Mohamed, was a presidential advisor.

117. In an email response dated 23 September 2014 to an inquiry about capacity building from The Wall Street Journal, Director General Hassan wrote the following: *"In April 2014, H.E. Minister Daud Mohamed Omar signed a capacity building paper with Soma (see picture on Ministry website)*[82] *- they will help us with some office equipment and some salaries of expert staff at the Ministry for one year"*. The text of Hassan's response had been drafted by Soma CFO Philip Wolfe, following a 22 September 2014 email in which the former requested Wolfe's assistance: *"Pls consult what to answer? I knew that they* [The Wall Street Journal] *have already some hints..."*

118. In summary, Soma's official representations of its Capacity Building Agreement to journalists and the public are in stark contrast to the events described by and documentary evidence obtained by the Monitoring Group. Instead of being an assistance package to facilitate hiring a limited number of technical experts, Soma's Capacity Building Agreement amounted in many cases to extra 'salaries' paid to top ministerial officials who had already been on the FGS payroll prior to the programme's launch.

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[79] S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

[80] Available from http://somaoilandgas.com/news/12.

[81] Written response to a journalist's query.

[82] The Monitoring Group was unable to locate this photo – or indeed any reference to Soma's Capacity Building Agreement – on the Ministry's website (http://mopetmr.so/), accessed 24 July 2015.

Agreement Amendments Following the Capacity Building Agreement

119. Shortly after the signing of the Capacity Building Agreement, the FGS and Soma began negotiating a further territorial allowance for Soma's seismic exploration, as well as a draft agreement that would grant Soma a larger share of profits from potential production ("Evaluation Area Extension" and "Draft Production Sharing Agreement (PSA)"). The Monitoring Group has identified these concessions to Soma as potential *quid pro quos* related to the Capacity Building Agreement.

Evaluation Area Extension

120. On 8 May 2014, the Minister signed a letter extending the offshore area available to Soma to survey (Evaluation Area Extension).[83] "In light of [Soma's] progress, it is the desire of the Ministry that the Evaluation Area…as agreed between the Ministry and Soma be expanded to include a larger area. The Ministry hereby requests that Soma include within its exploration Program (as defined in the SOA) a 2D seismic survey that extends to the JORA block as outlined in the attached map".[84] The letter ends: "Also, the JORA Block will become part of the area in respect of which Soma may serve a Notice of Application for a Production Sharing Agreement pursuant to Article 2.2. of the SOA".[85]

121. The timing of the signing of the Evaluation Area Extension suggests that it may have represented a *quid pro quo* between the Ministry and Soma. The Minister signed the Evaluation Area Extension on 8 May 2014, fewer than two weeks after agreeing the terms of the Soma Capacity Building Agreement. A week later, on 15 May 2014, Soma countersigned the Capacity Building Agreement.

Draft Production Sharing Agreement (PSA)

122. On 28 November 2014, Soma CEO Robert Sheppard addressed a letter (see annex 2.5.n) to the Minister, stating Soma's case for revising the production sharing terms.[86] The rationale presented by Soma for renegotiating the PSA included the fact that "much of the basin is in deep or ultra deep water", the unproven nature of the reserves, and the collapsing global price of oil. The letter also set forth Soma's wish to also include explicit fiscal terms for gas in the revised PSA.[87]

123. Subsequently in December 2014 a draft PSA agreement was sent to the Ministry for approval. The terms of this draft PSA have since been criticised for being highly unfavourable to the FGS,

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[83] See annex 2.5.m for a copy of this letter.

[84] Ownership of the Jora block is currently subject to a maritime border dispute between the governments of Kenya and Somalia.

[85] The Ministry later offered production sharing rights for the Jora block to another company in exchange for a similar 'capacity building' arrangement to Soma's, Allied Petroleum (SO) Corp. (see "Pattern of Corruption", below).

[86] The original PSA was set forth in an annex of the 6 August 2013 SOA.

[87] The primary impetus for the revised PSA may have been that Soma's seismic survey had revealed larger gas deposits than previously expected. Interview with a Western embassy official based in Nairobi, 24 March 2015.

particularly following the publication of a Bloomberg article that first revealed the parameters of the proposed deal.[88] In a copy of the draft PSA seen by the Monitoring Group, Soma's share of revenue is stipulated to be as high as 90 per cent in some cases. Furthermore, the draft PSA grants the company a four-year royalty holiday for oil and gas found fewer than 1,000 metres below the sea's surface, as well as a decade-long moratorium on paying taxes to the FGS.

124. Three months prior to the Bloomberg article, the Ministry's own legal advisor had cautioned against signing the PSA. In an 8 February 2015 email to Ministry officials, the advisor wrote, "*…as a matter of urgency, I wish to let you know that I am not in favor of signing the new proposed PSA from Soma. It is not in the best interest of Somalia and, if signed, it will destroy your careers as politicians, and technocrats*".

125. Following publication of the Bloomberg article, the Ministry issued a statement in which it denied having received any draft PSA from Soma, further announcing that "Somalia is not accepting PSA deals at the moment".[89] However, in a meeting with the Monitoring Group on 11 June 2015, Director General Hassan acknowledged that the Ministry had received the draft PSA from Soma, though he denied having personally seen it. Hassan further claimed that negotiations on the PSA had not yet begun, although he made reference to a "negotiation team", to which Dr. Abdulkadir Abiikar Hussein belongs. Contrary to Hassan's statements, internal Ministry correspondence seen by the Monitoring Group shows that Hussein sent a copy of the draft PSA to Hassan on 29 January 2015. Both Hassan and Hussein, as previously noted, have been paid 'salaries' by Soma.

126. Correspondence seen by the Monitoring Group shows that negotiations over the draft PSA with Soma have been taking place since at least late April 2015. In an email dated 30 April 2015, Peter Roberts, a lawyer representing the Ministry from the Houston-based firm Andrews Kurth LLP, wrote to another Ministry representative:

> *Soma - we had a cordial meeting and we promised to send to their lawyers next week a table of key issues and concerns regarding the PSA draft, with a view to discussing it with their lawyers week commencing 11 May. Going well so far.*

127. The current FGS Minister of Petroleum and Mineral Resources, H.E. Mohamed Mukhtar, told the Monitoring Group in June 2015 that the Ministry would not sign any PSA before a resource-sharing framework had been established with Somalia's regional authorities. He also told the Monitoring Group that The African Legal Support Facility, a public international institution hosted by

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[88] Ilya Gridneff, "Somalia May Pay 90% Oil Revenue to Explorer Under Draft Deal", *Bloomberg*, 29 May 2015. Available from http://www.bloomberg.com/news/articles/2015-05-28/somalia-may-pay-90-of-oil-revenue-to-explorer-under-draft-deal.

[89] AMISOM Daily Media Monitoring, 31 May 2015. Available from http://somaliamediamonitoring.org/june-1-2015-morning-headlines/.

the African Development Bank, was in the process of assigning a legal consultant to assist the Ministry in developing a model PSA for Somalia.[90]

Data room

128. Negotiations with Soma have taken place in a context of fundamental disparity, in which only one side, Soma, has access to the seismic survey data.[91]

129. Under the terms of the 6 August 2013 SOA, Soma was required to turn over the data obtained from its offshore seismic survey to the FGS "within a reasonable time". Although the survey was completed by June 2014, the company has yet to fulfil this obligation. Soma has justified the delay by referencing the lack of a data room at the Ministry, where the data may be stored properly.

130. A February 2015 internal confidential report,[92] written by an independent legal advisor to the Ministry and on file with the SEMG, demonstrates that Ministry officials were well aware of one-sided nature of the PSA negotiation. "The Somali government", the report concluded, "without any knowledge of the data or its contents and conclusions, is negotiating in the blind".

131. In a letter dated 17 October 2014, signed by Director General Hassan, Soma agreed to pay the costs of "rebuilding and refurbishment of that part of the Ministry Building that will house the data room in Mogadishu" up to a total of USD 100,000. The Ministry confirmed receipt of these funds into its CBS account on 18 December 2014. In February 2015, Soma requested an update from the Ministry on how the company's funds had been disbursed. A 3 March 2015 letter to Soma, signed by Jabril Mohamoud Geeddi, reported that "the funds are still in the above mentioned account as we have not yet began working on the project as the site for construction is currently occupied by Internally Displaced Persons (IDPs)".[93]

132. When interviewed by the Monitoring Group on 11 June 2015, Director General Hassan acknowledged that no further progress had been made towards establishing a data room on the Ministry's premises. Hassan further stated that he lacked "a concept of what kind of room we need for data". Hassan could not account for the USD 100,000 transferred by Soma and referred the SEMG to Jabril Mohamoud Geeddi. Geeddi has not responded to the Group's request for an interview.

133. The Monitoring Group subsequently obtained records for the Ministry's Central Bank account (#1009) that demonstrate that the funds allocated for the data room had been withdrawn by the middle

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[90] SEMG interview with H.E. Mohamed Mukhtar, 29 June 2015.
[91] A London-based oil and gas analyst interviewed by the Monitoring Group on 3 June 2015 referred to this state of affairs as "unconscionable".
[92] Report on file with the Monitoring Group since 9 September 2015.
[93] A copy of this letter is provided in annex 2.5.o.

of March 2015. As there are no names corresponding to the withdrawal entries in the records, the Group has been unable to determine who withdrew the funds or for what purpose.

Pattern of corruption

134. The Monitoring Group has obtained evidence suggesting that requests for 'capacity building' may form part of a pattern of corruption within the Ministry.

135. The Group has in its possession a Memorandum of Understanding (MOU),[94] dated 24 November 2014, between the Ministry and Allied Petroleum (SO) Corp., a Dubai-based petroleum exploration company "supported by Middle Eastern Sovereign Wealth Funds and major US Banks".[95] Former Minister Daud Mohamed Omar met with Allied Petroleum CEO Justin Dibb and COO Andrew Robinson in Abu Dhabi on 5 May 2014. At that meeting, the company expressed its interest in signing PSAs for four blocks in the Jora region, proximate to the Kenya-Somalia border. Before agreeing to any PSA terms, Director General Hassan insisted that Allied Petroleum provide 'capacity building' support to the Ministry.

136. Subsequent to that meeting, Hassan sent the text of a proposed MOU to Allied Petroleum. The Allied Petroleum MOU bore many similarities to the Soma MOU, with a number of the same clauses. For instance, the MOU stipulated that Allied Petroleum would pay the salaries of eight "consultants, advisors, or employees engaged by the Ministry", to a maximum of USD 5,000 each per month over a 24-month period. It also stipulated that Allied Petroleum was to pay for "the establishment of a data room", a project towards which Soma had already committed USD 100,000. The MOU also identified an International Bank of Somalia (IBS) account to receive the 'capacity building' funds, thereby bypassing the Central Bank (see annex 2.5.q for the details of the Ministry's IBS account).

137. The terms of the MOU make it clear that the proposed Capacity Building Agreement was intended to be a *quid pro quo* for the Ministry's granting of offshore PSA rights to Allied Petroleum; paragraph 11 states: *"The Commencement Date of the MoU shall be the date, being 90 days following signature of PSA's covering Offshore Jor[a] A, B, C, D"*. Per the terms of the Evaluation Area Extension agreement with Soma, however, the Ministry had already granted exploration rights of the entire Jora region to Soma on 8 May 2014.

138. Although Director General Hassan and CEO Justin Dibb signed the MOU with Allied Petroleum on 24 November 2014, it appears that it was never implemented.

139. The Ministry also approached Royal Dutch Shell plc with demands for 'capacity building'. In multiple emails dating back to May 2014, Director General Hassan repeatedly reminded Shell of its

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[94] The Allied Petroleum MOU is attached in annex 2.5.p.
[95] Quoted from Allied Petroleum's company profile.

capacity building obligations – including granting scholarships to Somali students – as stipulated in the pre-civil war Somali Government's 1988 Concession Agreement with Pecten Somalia Co. (a subsidiary of Shell). In a 20 November 2014 email to Menno DeRuig, an Exploration Manager for Shell covering Sub-Saharan Africa, Hassan wrote:

> *We repeatedly ask you issue [sic] a letter for sponsoring of university students, I don't [know] what is [sic] the difficulties you have and you didn't come back to us... The attached is [sic] the eligibility letters for some of the students so please you either directly communicate to the university and ask to proceed convincing [sic] that you are sponsoring or simply issue letter to sponsor to [sic] deal with them.*

140. Attached to the email were admission letters from USCI University in Kuala Lumpur for four Somali students: Abdirahman Farah Abdi, Asho Osman Abdi, Rakia Farah Abdi, and Salman Osman Abdi. All four are children of Director General Hassan. Examination of email correspondence by the SEMG has revealed that each student's admission to USCI University had been arranged through the intercession of Polaris Energy Sdn Bhd, a Malaysian oil company with which Hassan and other members of the Ministry had held meetings in Kuala Lumpur in September 2014.

141. On 24 November 2014 DeRuig responded to Hassan with an extensive list of documentation requirements, and also informed him that Shell would be unable to fund training programmes longer than one year in duration. The Monitoring Group is unaware of any subsequent attempts by Hassan to arrange for Shell to fund his children's education.

Soma's payments to an FGS legal advisor

142. The Monitoring Group has confirmed that Soma made payments to a long-standing FGS legal advisor, the Canadian lawyer J. Jay Park, QC, between 3 June 2013 and 6 August 2013.

143. The FGS' relationship with Park long pre-dated the existence of the Capacity Building Agreement and the signature of the Soma SOA on 6 August 2013. Between 2007 and August 2012, Park served as an oil and gas advisor for the Somali Transitional Federal Government (TFG), during which time he was a member of the Petroleum Law Team responsible for drafting the 2008 legislation. In early 2013, Park was implicated in a petroleum bribery scandal in Chad two years earlier, where he had allegedly facilitated the transfer of USD 2 million to the wife of a diplomat.[96] In April 2013, Park announced his retirement from his firm, Norton Rose Canada LLP. In June 2013 he founded his own entity, Petroleum Regimes Advisory Ltd. (PRA), and continued as an official advisor to the FGS, a role he exercised during the SOA negotiations with Soma. In its 2014 report (S/2014/726), the Monitoring Group identified Jay Park, along with Dr. Abdullahi Haider Mohamed,

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[96] Jacquie McNish, Carrie Tait And Kelly Cryderman, "Bay Street law firms advised Griffiths on Chad deal", *The Globe and Mail*, 26 January 2013. Available from http://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/bay-street-law-firms-advised-griffiths-on-chad-deal/article7890162/.

as a "key architect" of the Soma deal on the FGS' side.[97] In 2013, one of Soma's own representatives told an international consulting firm that Park had a role "to protect all interests" – both those of the FGS and Soma – during the SOA negotiations.[98]

144. In a letter to the SEMG dated 1 July 2015, Soma acknowledged that it had paid Park's fees during the SOA negotiation process, despite the apparent conflict of interest doing so entailed:

> It was of the utmost importance for Soma Oil & Gas and the Federal Government, that both parties had independent legal advice during the negotiations. As the Federal Government was unable to pay for this advice which transpired late in the negotiations, the Federal Government asked if Soma would cover its legal expenses. The Company's board took extensive independent legal advice before proceeding to do so.[99]

145. Park acknowledged that his firm PRA had received USD 494,564.85 from Soma, through the then-Ministry of National Resources, for legal services rendered from 3 June 2013 to 6 August 2013.[100] Park informed the SEMG that on 6 August 2013 – the same day the SOA was signed – then-Minister Abdirizak Omar Mohamed "issued a written direction to Soma to pay the fees associated with our work for the FGS in relation to Soma".[101]

146. Soma failed to provide a response to the Monitoring Group's inquiry regarding the size of the payment the company had made to Park.[102] However, both Soma and Park confirmed that the company had issued payment to PRA on 18 December 2014.[103] Between 6 August 2013 and 18 December 2014 Park continued to legally advise the Ministry on numerous matters, including the Capacity Building Agreement. PRA remains on retainer with the Ministry as of 19 July 2015, though Park told the Monitoring Group that the last legal request he had received from the Ministry was in March 2015.[104]

147. Despite the fact that Park's payment was contingent on the Ministry signing the SOA – Soma had no reason to pay his fees otherwise – both Soma and Park have maintained that their arrangement did not represent a conflict of interest.[105] However, the February 2015 report by the Ministry's legal

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[97] See S/2014/726, annex 5.1.

[98] 2013 interview with Adam Smith International for an early draft of its report titled "Needs Assessment for the Extractives Industry in Somalia".

[99] S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

[100] Letter from Jay Park to the SEMG, 19 July 2015.

[101] Letter from Jay Park to the SEMG, 19 July 2015. Park's account was confirmed by Soma in the company's 24 July 2015 letter to the Group.

[102] Letter from Soma to the SEMG, 24 July 2015.

[103] Letter from Jay Park to the SEMG, 19 July 2015; letter from Soma to the SEMG, 24 July 2015.

[104] Letter from Jay Park to the SEMG, 19 July 2015.

[105] Ibid.; "U.N. monitors accuse British oil firm of 'payoffs' to Somali officials", *Reuters*, 4 August 2015. Available from http://uk.reuters.com/article/2015/08/04/uk-un-somalia-soma-idUKKCN0Q829Q20150804.

advisor also flagged the issue of Park's conflict of interest, and suggested that the FGS may not have received "adequate and effective legal representation" during the SOA negotiations.[106]

Engagement with Soma and FGS officials

148. The Monitoring Group contacted each of the Ministry officials profiled above, informing them of its investigations and that their names will appear in this communication to the Committee. As of 24 July 2015, Farah Abdi Hassan, Mohamed Ali-nur Hagi, Dr. Abdi Mohamed Siad, Abdirizak Hassan Awed, Jay Park, and Mohamed Yousuf Ali had been interviewed by the Group.

149. In a June 2015 interview with the Monitoring Group, H.E. Mohamed Mukhtar, FGS Minister of Petroleum and Mineral Resources, categorised Soma's Capacity Building Agreement as furnishing "basic support salaries for these individuals that we need at the Ministry, but cannot afford to employ". He also assured the Group that Soma had received no benefit, and would receive none in future, as a result of payments the company had made to the Ministry. Minister Mukhtar further stated that he would entertain "no discussion…that those who were paid had, or will have, any influence on oil deals".[107]

150. On 18 June 2015, the Monitoring Group sent a letter to Soma CEO Robert Sheppard, requesting that the company provide information on a number of the matters discussed above.[108] Soma sent a reply to the Monitoring Group on 1 July 2015 and another on 24 July in response to the Group's follow-up questions, much of the content of which has been cited in the preceding discussion.

Background: the oil and gas sector in Somalia

Oil and gas as a threat to peace and security

151. The SEMG discussed the threat to peace and security posed by the extractives sector in Somalia in its report in 2013 (S/2013/413). The Group highlighted both the risks of corruption in the sector, and the shortcomings in transparency and capacity of Somalia's petroleum institutions: the Somalia Petroleum Corporation and Somali Petroleum Authority. It therefore recommended "urgent international support to the Somali Government to strengthen capacity within the SPA and to create an independently managed cadastre of oil licences, which should be linked to a clear financial trail for any signature fees collected during any licensing and re-licensing of oil acreage".

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[106] Abdulhaliim Abdurahman, "Confidential Legal Assessment of Soma Oil And Gas's SOA, PSA 1, and Proposed new PSA", 6 February 2015. This report is on file with the Monitoring Group.
[107] SEMG interview with H.E. Mohamed Mukhtar, 29 June 2015.
[108] S/AC.29/2015/SEMG/OC.23, 18 June 2015.

152. The Monitoring Group's 2014 report (S/2014/726) described the lack of transparency and failure to obtain parliamentary approval prior to the awarding of the Soma contract.[109] In the context of both the Soma investigation and investigations into oil exploration and concessions elsewhere in Somalia, the SEMG specifically recommended "that the Security Council consider deciding in a resolution to request a moratorium on all oil licensing until a legal understanding is reached between the regional and federal authorities in respect of ownership of natural resources in Somalia".

153. In April 2014 Adam Smith International, an international consulting firm, produced a report titled "Needs Assessment for the Extractives Industry in Somalia", commissioned by the UK Department for International Development. Though never published, the report offered similar recommendations: the establishment of an Extractives Technical Advisory Panel consisting of international and national experts, and the provision of long-term and significant technical support to Somali institutions engaged in the extractives sector.

154. On Soma specifically, the report notes: "We received unverified information that some pre-1991 license holders had offered to share geological data with FGS but withdrew these offers when the Soma Oil & Gas deal focusing on data acquisition was signed. Some have also offered capacity building support, which has not yet been taken on by FGS".[110] Under a chapter dedicated to transparency and accountability, the report continues: "The SOA between the Federal Government of Somalia and UK Soma Oil & Gas awarded through direct negotiations has raised serious concerns amongst stakeholders, including the industry, about the Government's commitment to transparent and fair management of its extractives sector".

155. The FGC Reviews of Public Sector Contracts and Concessions reached a similar conclusion: "In countries with no previous petroleum discoveries, the approach taken to exploration is similar to what we now see in Somalia. Investors submit unsolicited applications to develop production blocks, leading to direct negotiations. These generally lack transparency and accountability, and will usually result in sub-optimal deals… Given these considerations, and the risks to the country of allowing an expansion of ad hoc licensing, it would be prudent for the Federal Government to postpone direct negotiations on PSAs until a new legal and fiscal framework for the sector has been established".[111]

Internal regulation

156. The Somalia Petroleum Authority (SPA) was legally established by the 2008 Petroleum Law (Article 19) to serve as the "competent regulatory authority to regulate Petroleum Operations" replacing the function of the then-Ministry of National Resources' internal Petroleum Regulatory

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[109] See S/2014/726, annex 5.1.

[110] Adam Smith International, "Needs Assessment for the Development of Somalia's Extractive Industries", April 2014.

[111] "FGC Reviews of Public Sector Contracts and Concessions", 8 January 2015.

Affairs Department. The SPA was to be given the power to grant certain contractual concessions to oil and gas firms, including Reconnaissance Authorisations, PSAs, and Surface Access Authorisations. It was also mandated to investigate individuals who contravened the Law, and entities contravening Authorisation conditions, independently of the Ministry.

157. The Petroleum Law directed the Somali Government to create the SPA once it was satisfied that "the quantity of Petroleum Operations in Somalia [were] sufficient to justify the costs of establishing [it]". Despite significant interest from numerous oil and gas companies – including both oil majors still holding rights to pre-Somali civil war *force majeure* blocks, and smaller exploration companies[112] – the FGS has yet to establish the SPA. As a result, the Ministry of National Resources granted Soma both the SOA and Reconnaissance Authorisation, as well as conducted negotiations on PSAs. Its successor as of January 2014, the Ministry of Petroleum and Mineral Resources, has negotiated subsequent arrangements.

158. Even in the absence of the SPA, the 2008 Petroleum Law requires the FGS under Article 44 to make "regular publication of all material Petroleum-related payments by Authorised Persons to the Government and all material revenues received by the Government from Authorised persons to a wide audience in a publicly accessible, comprehensive and comprehensible manner".[113] To date, the details of payments made by Soma to the FGS have not been made public.

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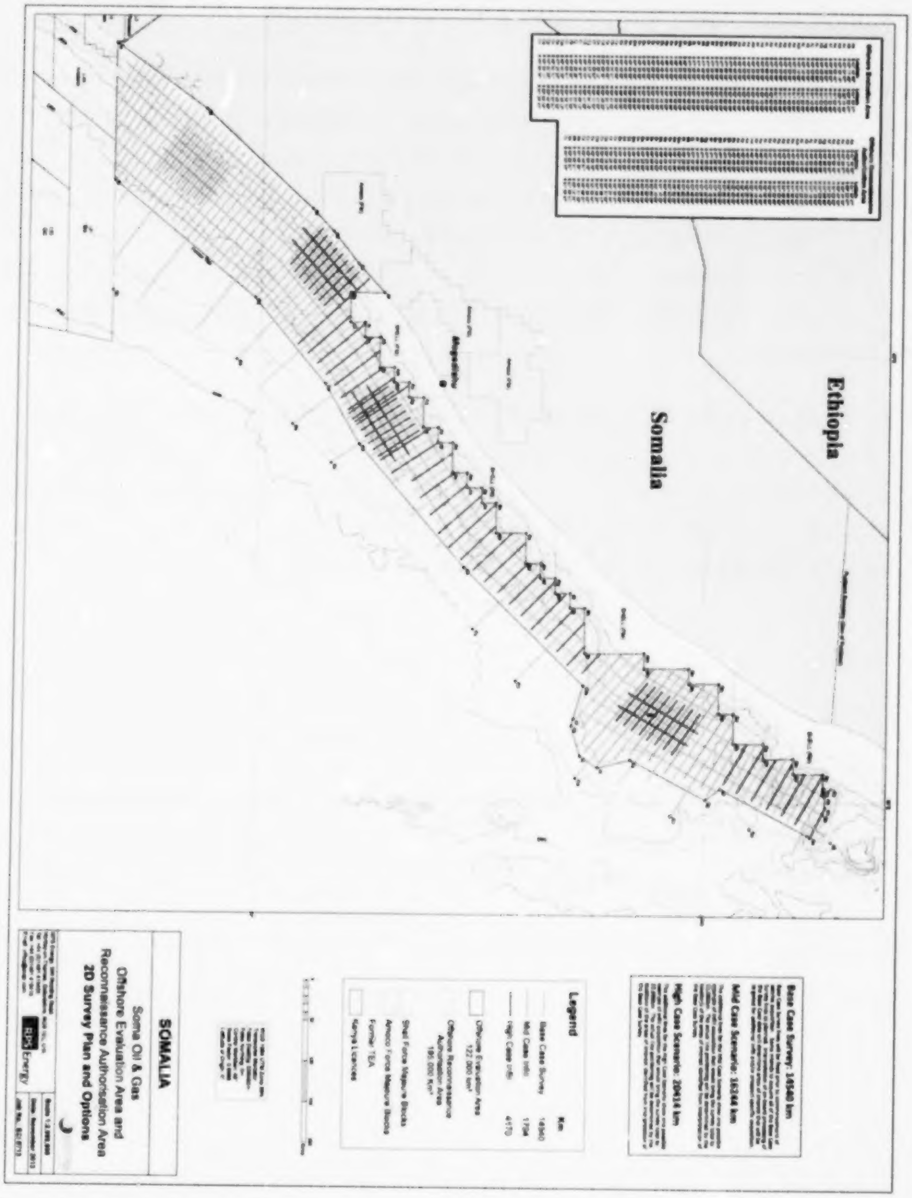
[112] International oil and gas companies with which the FGS has conducted recent negotiations include: Allied Petroleum (SO) Corp., Amsas, BGP Inc., Kilimanjaro Capital, Milio International, Mubadala Petroleum, New Age Limited, Royal Dutch Shell plc, Schlumberger Limited, Spectrum Geo Ltd., and Total S.A.

[113] The same article requires that "[a]ll material payments and revenues are to [be] reconciled by a credible, independent administrator appointed by the Government, applying international auditing standards".

Annex 2.5.a: Soma Oil & Gas Offshore Evaluation Area


Ethiopia
Somalia
Mogadishu
Base Case Survey: 14540 km
Mid Case Scenario: 16344 km
High Case Scenario: 20414 km
Legend
Km
Base Case Survey 14540
Mid Case infill 1794
High Case infill 4170
Offshore Evaluation Area 122,000 km²
Offshore Reconnaissance Authorisation Area 195,000 Km²
Shell Force Majeure Blocks
Amoco Force Majeure Blocks
Former TEA
Kenya Licences
SOMALIA
Soma Oil & Gas
Offshore Evaluation Area and
Reconnaissance Authorisation Area
2D Survey Plan and Options
RPS Energy

Annex 2.5.b: Nairobi Fairmont Hotel Meeting Photograph

Annex 2.5.c: First Amendment Agreement

FIRST AMENDING AGREEMENT
TO SEISMIC OPTION AGREEMENT

Dated **10th March 2014**

(1) **GOVERNMENT OF THE FEDERAL REPUBLIC OF SOMALIA REPRESENTED BY HE DAUD MOHAMED OMAR, MINISTER OF PETROLEUM AND MINERAL RESOURCES**

(2) **SOMA OIL & GAS EXPLORATION LIMITED, A WHOLLY OWNED SUBSIDIARY OF SOMA OIL & GAS HOLDINGS LIMITED REPRESENTED BY THE RIGHT HONOURABLE THE LORD HOWARD OF LYMPNE CH, QC**

FIRST AMENDMENT AGREEMENT

TO SEISMIC OPTION AGREEMENT

Dated **10th March 2014**

Between:

(1) **The Government of the Federal Republic of Somalia** represented for the purpose of this agreement by the Minister of Petroleum and Mineral Resources (the "**Government**"); and

(2) **Soma Oil & Gas Exploration Limited, a wholly owned subsidiary of Soma Oil & Gas Holdings Limited** represented by The Right Honourable The Lord Howard of Lympne CH, QC, incorporated under the laws of England and Wales and having its registered office at 1 Finsbury Circus, London, EC2M 7SH, United Kingdom ("**Soma**").

RECITALS

Whereas:

(A) Pursuant to the Seismic Option Agreement dated 6 August 2013, Soma is conducting a seismic survey across the Exploration Area within the Federal Republic of Somalia's lands and territorial waters with the agreement and at the direction of the Government, in accordance with Reconnaissance Authorisation dated 9 January 2014 entered into between the Government and Soma.

(B) In conducting seismic surveying in The Federal Republic of Somalia, Soma has engaged the services of a number of experienced contractors to complete the work.

(C) The work performed to date under the seismic survey has identified a number of operational issues which the parties agree should be resolved by amendments to the SOA.

(D) The Government requires capacity assistance in connection with the supporting work of the Government in relation to the seismic survey and other initiatives of the Government in relation to petroleum affairs, and Soma has agreed to provide capacity assistance to the Government based on request letters from the Ministry.

Now it is hereby agreed as follows:

1 Definitions and Interpretation

In this Agreement, terms defined in the SOA shall have the meanings given to them in the SOA. The provisions of Clauses 1.2 to 1.8, 10.7, 7 and 15, 22, 23 and 25 to 29 of the SOA apply equally to this Agreement.

2 Seismic Operations Matters

2.1 If Soma or any of its current Subcontractors desire to retain any other Subcontractors to assist in the execution of the Exploration Programme, the prior written consent of the Government shall be required.

2.2 All Subcontractors must comply with Somalia and relevant international laws, including Corrupt Practices Laws and Soma shall be responsible for performance of such Subcontractors in relation to the Exploration Programme, in addition to its obligations under Article 10.6 of the SOA. Any company which Soma or a Subcontractor requests to become a Subcontractor shall be in compliance with Somali and relevant international laws including Corrupt Practices Laws at and prior to the time of the request.

2.3 The Parties shall establish a regular meeting schedule to discuss the status of the Exploration Programme. Meetings shall occur at least once every two months, at the Government's offices in Mogadishu or such other location as the Parties may agree. The Government shall propose a schedule of meeting dates and times consistent with this Clause and Soma shall provide the first draft of the agenda for each meeting.

2.4 Soma shall provide written reports on the status of the Exploration Programme to the Government on a weekly basis during the conduct of the seismic survey, and on a monthly basis following completion of the seismic survey.

2.5 Soma shall provide prompt written notice to the Government of the occurrence of any of the following:

2.5.1 commencement of any material operations during the Exploration Programme;

2.5.2 suspension or termination of the Exploration Programme (in addition to the Notice of Completion under the SOA);

2.5.3 any significant incidents which occur during the prosecution of the Exploration Programme; and

2.5.4 Contact by any third parties expressing interest in the Exploration Programme.

Soma shall direct any third party expressing interest in the Exploration Programme to the Government as the owner of the Data.

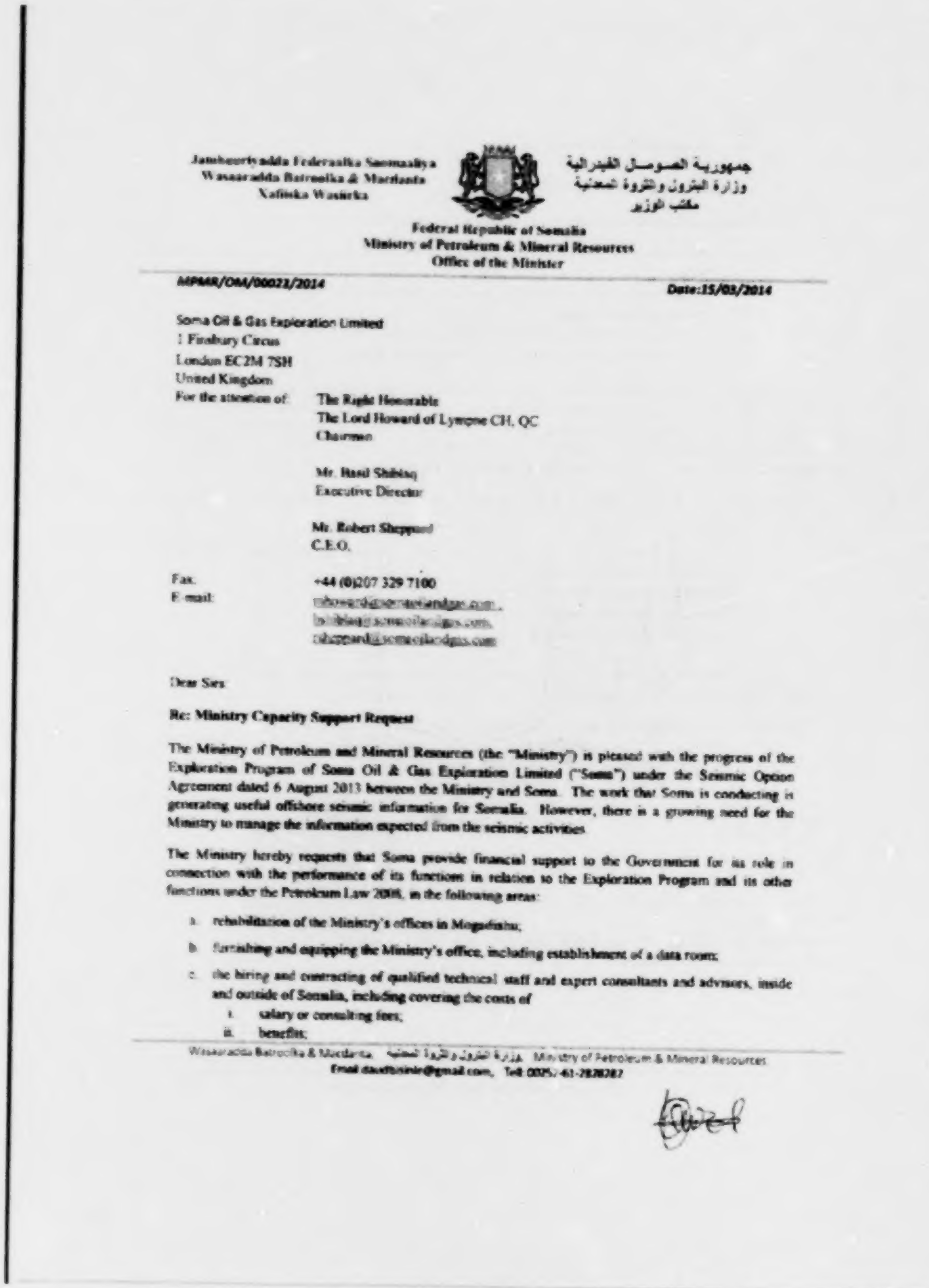
3 Government Capacity Support

3.1 The Ministry of Petroleum and Mineral Resources (the "Ministry") requires support for its role in connection with the performance of its functions in relation to the Exploration Programme and its other functions under the Petroleum Law 2008, in the following areas:

3.1.1 rehabilitation of the Ministry's offices in Mogadishu;

3.1.2 furnishing and equipping the Ministry's office, including establishment of a data room;

Annex 2.5.d: Capacity Building Support Request Letter



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب الوزير

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources
Office of the Minister

MPMR/OM/00023/2014

Date:15/03/2014

Soma Oil & Gas Exploration Limited
1 Finsbury Circus
London EC2M 7SH
United Kingdom

For the attention of: The Right Honorable
The Lord Howard of Lympne CH, QC
Chairman

Mr. Basil Shiblaq
Executive Director

Mr. Robert Sheppard
C.E.O.

Fax: +44 (0)207 329 7100
E-mail: [illegible]
[illegible]
[illegible]

Dear Sirs

Re: Ministry Capacity Support Request

The Ministry of Petroleum and Mineral Resources (the "Ministry") is pleased with the progress of the Exploration Program of Soma Oil & Gas Exploration Limited ("Soma") under the Seismic Option Agreement dated 6 August 2013 between the Ministry and Soma. The work that Soma is conducting is generating useful offshore seismic information for Somalia. However, there is a growing need for the Ministry to manage the information expected from the seismic activities.

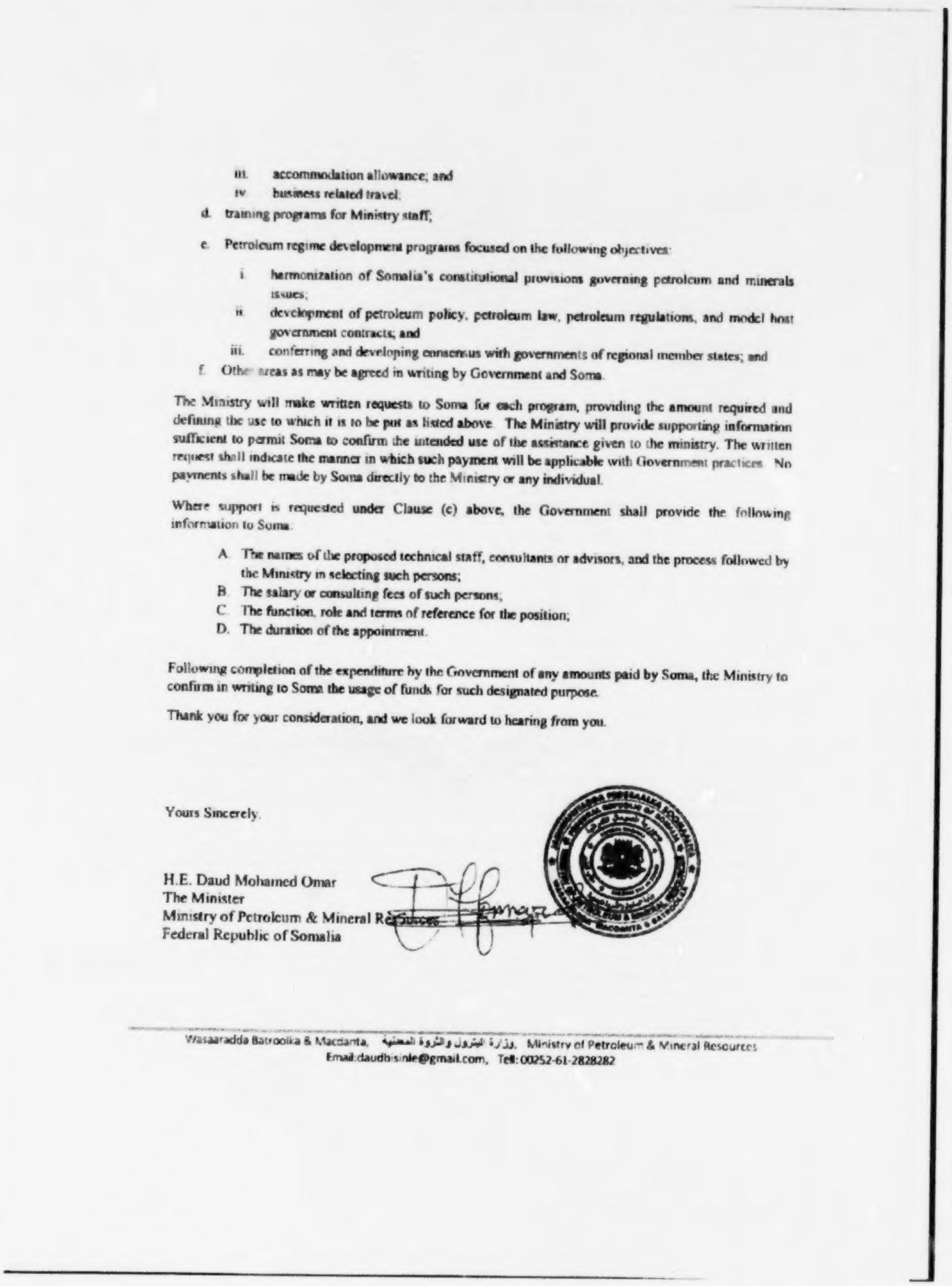
The Ministry hereby requests that Soma provide financial support to the Government for its role in connection with the performance of its functions in relation to the Exploration Program and its other functions under the Petroleum Law 2008, in the following areas:

a. rehabilitation of the Ministry's offices in Mogadishu;

b. furnishing and equipping the Ministry's office, including establishment of a data room;

c. the hiring and contracting of qualified technical staff and expert consultants and advisors, inside and outside of Somalia, including covering the costs of
   i. salary or consulting fees;
   ii. benefits;

Wasaaradda Batroolka & Macdanta, وزارة البترول والثروة المعدنية, Ministry of Petroleum & Mineral Resources
Email daudbisinle@gmail.com, Tel: 00252-61-2828287



  - iii. accommodation allowance; and
  - iv. business related travel;
- d. training programs for Ministry staff;
- e. Petroleum regime development programs focused on the following objectives:
  - i. harmonization of Somalia's constitutional provisions governing petroleum and minerals issues;
  - ii. development of petroleum policy, petroleum law, petroleum regulations, and model host government contracts; and
  - iii. conferring and developing consensus with governments of regional member states; and
- f. Other areas as may be agreed in writing by Government and Soma.

The Ministry will make written requests to Soma for each program, providing the amount required and defining the use to which it is to be put as listed above. The Ministry will provide supporting information sufficient to permit Soma to confirm the intended use of the assistance given to the ministry. The written request shall indicate the manner in which such payment will be applicable with Government practices. No payments shall be made by Soma directly to the Ministry or any individual.

Where support is requested under Clause (c) above, the Government shall provide the following information to Soma:

- A. The names of the proposed technical staff, consultants or advisors, and the process followed by the Ministry in selecting such persons;
- B. The salary or consulting fees of such persons;
- C. The function, role and terms of reference for the position;
- D. The duration of the appointment.

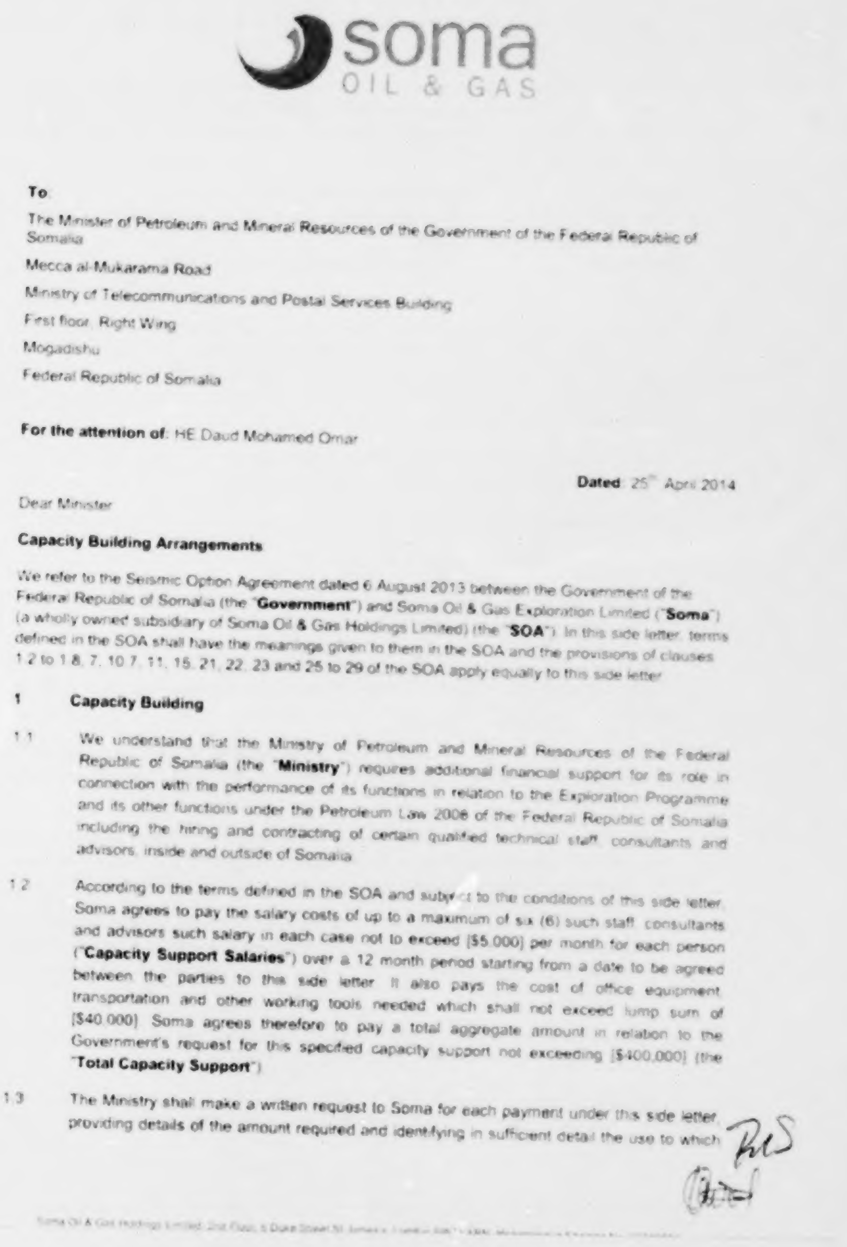
Following completion of the expenditure by the Government of any amounts paid by Soma, the Ministry to confirm in writing to Soma the usage of funds for such designated purpose.

Thank you for your consideration, and we look forward to hearing from you.

Yours Sincerely,

H.E. Daud Mohamed Omar
The Minister
Ministry of Petroleum & Mineral Resources
Federal Republic of Somalia

Annex 2.5.e: Capacity Building Agreement



To:

The Minister of Petroleum and Mineral Resources of the Government of the Federal Republic of Somalia
Mecca al-Mukarama Road
Ministry of Telecommunications and Postal Services Building
First floor, Right Wing
Mogadishu
Federal Republic of Somalia

For the attention of: HE Daud Mohamed Omar

Dated: 25th April 2014

Dear Minister

Capacity Building Arrangements

We refer to the Seismic Option Agreement dated 6 August 2013 between the Government of the Federal Republic of Somalia (the "**Government**") and Soma Oil & Gas Exploration Limited ("**Soma**") (a wholly owned subsidiary of Soma Oil & Gas Holdings Limited) (the "**SOA**"). In this side letter, terms defined in the SOA shall have the meanings given to them in the SOA and the provisions of clauses 1.2 to 1.8, 7, 10.7, 11, 15, 21, 22, 23 and 25 to 29 of the SOA apply equally to this side letter

1 **Capacity Building**

1.1 We understand that the Ministry of Petroleum and Mineral Resources of the Federal Republic of Somalia (the "**Ministry**") requires additional financial support for its role in connection with the performance of its functions in relation to the Exploration Programme and its other functions under the Petroleum Law 2008 of the Federal Republic of Somalia including the hiring and contracting of certain qualified technical staff, consultants and advisors, inside and outside of Somalia

1.2 According to the terms defined in the SOA and subject to the conditions of this side letter, Soma agrees to pay the salary costs of up to a maximum of six (6) such staff, consultants and advisors such salary in each case not to exceed [$5,000] per month for each person ("**Capacity Support Salaries**") over a 12 month period starting from a date to be agreed between the parties to this side letter. It also pays the cost of office equipment, transportation and other working tools needed which shall not exceed lump sum of [$40,000]. Soma agrees therefore to pay a total aggregate amount in relation to the Government's request for this specified capacity support not exceeding [$400,000] (the "**Total Capacity Support**")

1.3 The Ministry shall make a written request to Soma for each payment under this side letter, providing details of the amount required and identifying in sufficient detail the use to which such funds will be put, including the information required by paragraph 1 6 of this side letter Each such written request shall be signed by the Minister of Petroleum and Mineral Resources of the Federal Republic of Somalia (the "**Minister**")

1.4 Soma shall make the payment of the Capacity Support Salaries, as agreed between Soma and Ministry to be made pursuant to this side letter, to the designated official bank account of the Government on the [•] day of each month following the date of this side letter the details of which are as follows

Bank: **[Central Bank of Somalia•]**
Sort Code: **[Ministry of Petroleum & Mineral Resources]**
Account Number: **[1009]**
Reference: **[Ministry of Petroleum & Mineral Resources]**

1.5 The Government shall provide supporting information sufficient to allow Soma to confirm the use of each payment made by Soma pursuant to this side letter

1.6 The Government shall provide [monthly] written reports to Soma in relation to the Capacity Support Salaries which reports shall provide the following information to Soma in respect of the Capacity Support Salaries

1.6.1 The names of the proposed technical staff, consultants or advisors, and the process followed by the Ministry in selecting such persons

1.6.2 The function, role and terms of reference for the position

1.6.3 The duration of the appointment, and

1.6.4 A copy of the contract of employment for each such proposed member of staff (whose salary costs are to be paid for by Soma)

1.7 Each contract for services for each person as contemplated by this side letter shall be on terms and conditions that are in all material respects standard in relation to their role and status

1.8 Following the completion of expenditure by the Government of the Total Capacity Support paid by Soma, the Ministry shall confirm in writing to Soma the usage of funds for such designated purpose

1.9 The Government warrants and undertakes to Soma that it shall not enter into any contract or arrangement with any party in respect of the provision of any service, thing real or personnel as contemplated by this side letter which party constitutes a "connected person"

1.10 For the purposes of paragraph 1.9 "connected person" is any person, company, other organisation or legal entity directly or indirectly controlled by any member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government

1.11 The Ministry confirms that they will comply with all relevant international Corrupt Practices laws (as defined in clause **[1.10]** of the SOA) in connection with

1.11.1 the execution of this side letter, including the hiring and contracting of technical staff, consultants and advisors, inside and outside of Somalia

1.11.2 the performance of its functions in relation to the Exploration Programme; and

1.11.3 its other functions under the Petroleum Law 2008 of the Federal Republic of Somalia.

2 Off-set against PSAs

2.1 SOMA considers that all payments actually made by Soma pursuant to this side letter will be off-set against the Contractor's (as defined in the PSA) obligations set out in Sections 22.3 (Rental) and 22.4 (Training Fee) under the first [four (4)] PSA(s) to be executed (or as such Sections may be re-numbered).

2.2 For the avoidance of doubt, no payments actually made by Soma pursuant to this side letter may be off-set against the Contractor's obligations set out in Section 22.1 (Signature Bonus), in the amount of $500,000 each, under the [first [four (4)] PSA(s) to be executed] (or as such Section may be re-numbered).

Please confirm your acknowledgement of the proposals set out in this side letter by countersigning this side letter and returning it to us.

Yours sincerely

Signed by

Robert Sheppard

duly authorized for and on behalf of

Soma Oil & Gas Exploration Limited

Chief Executive Officer

We acknowledge the proposals set out in the above side letter.

Signed by

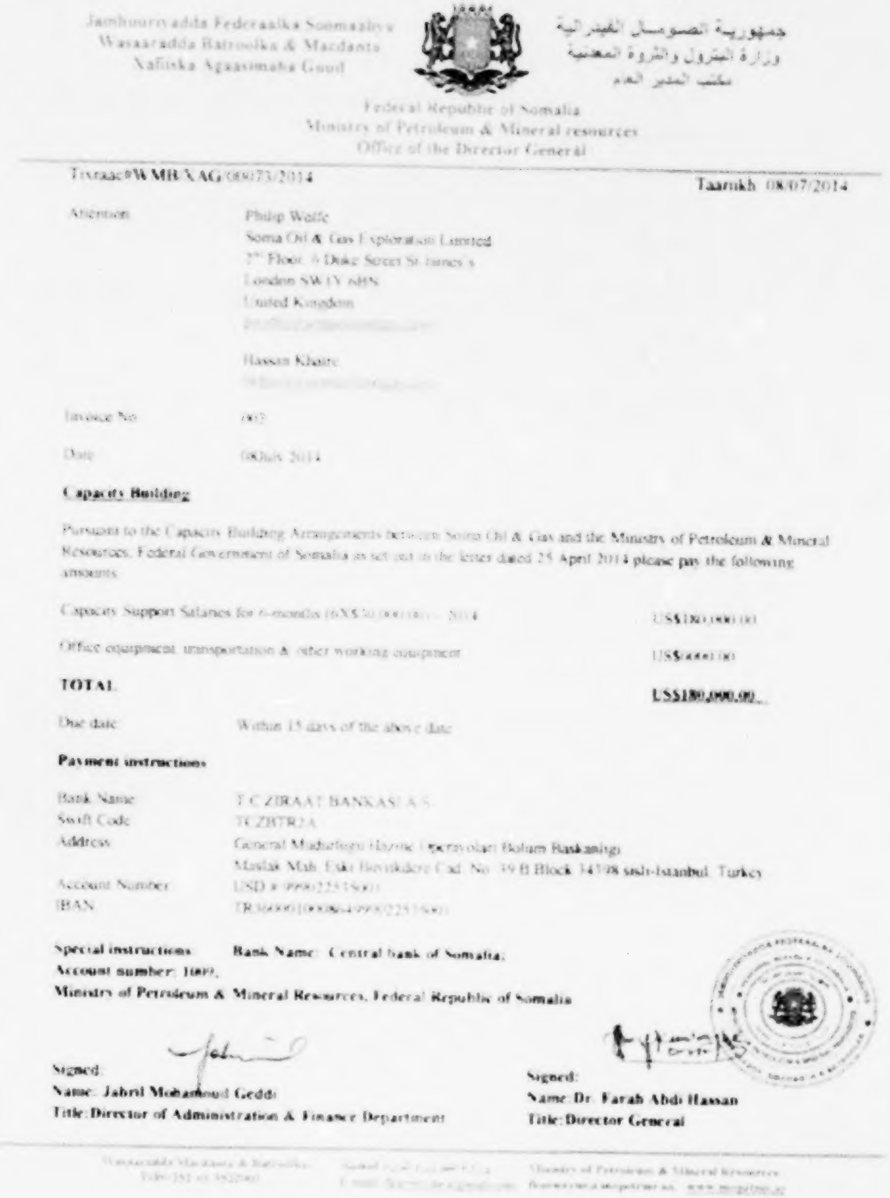
HE Duad Omar Mohamed

duly authorized for and on behalf of

The Federal Republic of Somalia by its
Minister of Petroleum & Mineral Resources

Minister of Petroleum & Mineral Resources

Annex 2.5.f: Capacity Building Invoice



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Agaasimaha Guud

جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب المدير العام

Federal Republic of Somalia
Ministry of Petroleum & Mineral resources
Office of the Director General

Tixraac#WMB/XAG/00073/2014

Taarikh 08/07/2014

Attention: Philip Wolfe
Soma Oil & Gas Exploration Limited
2nd Floor, 6 Duke Street St James's
London SW1Y 6BN
United Kingdom
[redacted]

Hassan Khaire
[redacted]

Invoice No: 002

Date: 08July 2014

Capacity Building

Pursuant to the Capacity Building Arrangements between Soma Oil & Gas and the Ministry of Petroleum & Mineral Resources, Federal Government of Somalia as set out in the letter dated 25 April 2014 please pay the following amounts:

Capacity Support Salaries for 6-months (6X$30,000.00) – 2014	US$180,000.00
Office equipment, transportation & other working equipment	US$0000.00
TOTAL	**US$180,000.00**

Due date: Within 15 days of the above date

Payment instructions

Bank Name: T.C ZIRAAT BANKASI A.S.
Swift Code: TCZBTR2A
Address: Genel Mudurlugu Hazine Operasyonlari Bolum Baskanligi
Maslak Mah. Eski Buyukdere Cad. No: 39 B Block 34398 sisli-Istanbul, Turkey
Account Number: USD # [illegible]
IBAN: TR[illegible]

Special instructions: Bank Name: Central bank of Somalia; Account number: 1009, Ministry of Petroleum & Mineral Resources, Federal Republic of Somalia

Signed:
Name: Jabril Mohamoud Geddi
Title: Director of Administration & Finance Department

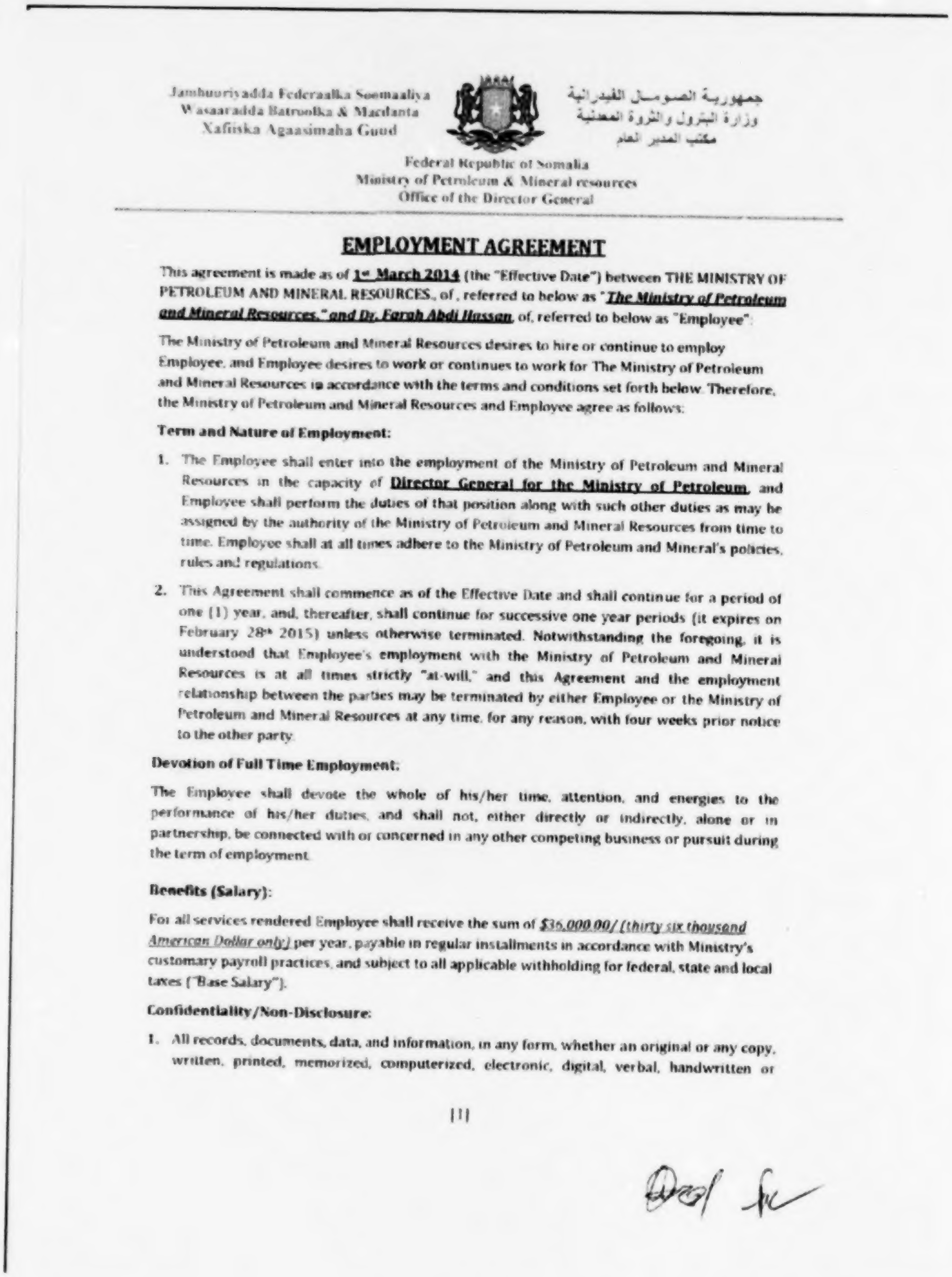
Signed:
Name: Dr. Farah Abdi Hassan
Title: Director General

Ministry of Petroleum & Mineral Resources [illegible]

Annex 2.5.g: Salary Chart

Contractor Name	Mar/14	Apr/14	May/14	Jun/14	Jul/14	Aug/14	Sep/14	Oct/14	Nov/14	Dec/14	Jan/15	Feb/15	Mar/15	Apr/15	May/15	Jun/15	Jul/15	Grand Total
Received Amount	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	($30,000)	$ -	$ -	$ -	$ -	$ -	($360,000)
Mr. Jabril Mohamoud Geedi	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]						$ 36,000.00
Dr. Farah Abdi Hassan	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]						$ 36,000.00
Dr. Mohamed Ali-nur Hagi		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 3,000.00					$ 33,000.00
Dr. Abdulkadir Abukar Hussein			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 3,000.00	$ 3,000.00				$ 30,000.00
Mr. Hassan Ali Ahmed					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 2,000.00	$ 2,000.00	$ 2,000.00	$ 2,000.00		$ 16,000.00
Mr. Yusuf Hassan Isack					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 3,000.00	$ 3,000.00	$ 3,000.00	$ 3,000.00		$ 24,000.00
Mr. Abdinur Mohamed ahmed					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 2,000.00	$ 2,000.00	$ 2,000.00	$ 2,000.00		$ 16,000.00
Mr. Abdullahi Mohamed warfaa					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 2,000.00	$ 2,000.00	$ 2,000.00	$ 2,000.00		$ 16,000.00
Mr. Mohamed yusuf Ali					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]						$ 32,000.00
Dr. Abdi Mohamed Saad					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]						$ 12,000.00
Mrs. Leila Ali Ahmed							[illegible]	$ 700.00	$ 700.00	$ 700.00	$ 700.00	[illegible]						$ 4,200.00
Dr. abdullahi Haider Mohamed								[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$ 1,000.00					$ 15,000.00
Mr. Abdirizak Hassan Awad									[illegible]	[illegible]	[illegible]	[illegible]	$ 1,000.00	$ 1,000.00				$ 4,000.00
Farah Ahmed Isma'il									[illegible]	[illegible]	[illegible]	[illegible]	$ 400.00	$ 400.00				$ 1,600.00
Totals	$6,000	$9,000	$12,000	$12,000	$29,000	$29,000	$29,700	$32,700	$34,100	$34,100	$34,100	$34,100	$	$	$	$	$	$ 295,[illegible]

Annex 2.5.h: Farah Abdi Hassan contract



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Agaasimaha Guud

جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب المدير العام

Federal Republic of Somalia
Ministry of Petroleum & Mineral resources
Office of the Director General

EMPLOYMENT AGREEMENT

This agreement is made as of **1st March 2014** (the "Effective Date") between THE MINISTRY OF PETROLEUM AND MINERAL RESOURCES., of , referred to below as "***The Ministry of Petroleum and Mineral Resources," and Dr. Farah Abdi Hassan***, of, referred to below as "Employee":

The Ministry of Petroleum and Mineral Resources desires to hire or continue to employ Employee, and Employee desires to work or continues to work for The Ministry of Petroleum and Mineral Resources in accordance with the terms and conditions set forth below. Therefore, the Ministry of Petroleum and Mineral Resources and Employee agree as follows:

Term and Nature of Employment:

1. The Employee shall enter into the employment of the Ministry of Petroleum and Mineral Resources in the capacity of **Director General for the Ministry of Petroleum**, and Employee shall perform the duties of that position along with such other duties as may be assigned by the authority of the Ministry of Petroleum and Mineral Resources from time to time. Employee shall at all times adhere to the Ministry of Petroleum and Mineral's policies, rules and regulations.
2. This Agreement shall commence as of the Effective Date and shall continue for a period of one (1) year, and, thereafter, shall continue for successive one year periods (it expires on February 28th 2015) unless otherwise terminated. Notwithstanding the foregoing, it is understood that Employee's employment with the Ministry of Petroleum and Mineral Resources is at all times strictly "at-will," and this Agreement and the employment relationship between the parties may be terminated by either Employee or the Ministry of Petroleum and Mineral Resources at any time, for any reason, with four weeks prior notice to the other party.

Devotion of Full Time Employment:

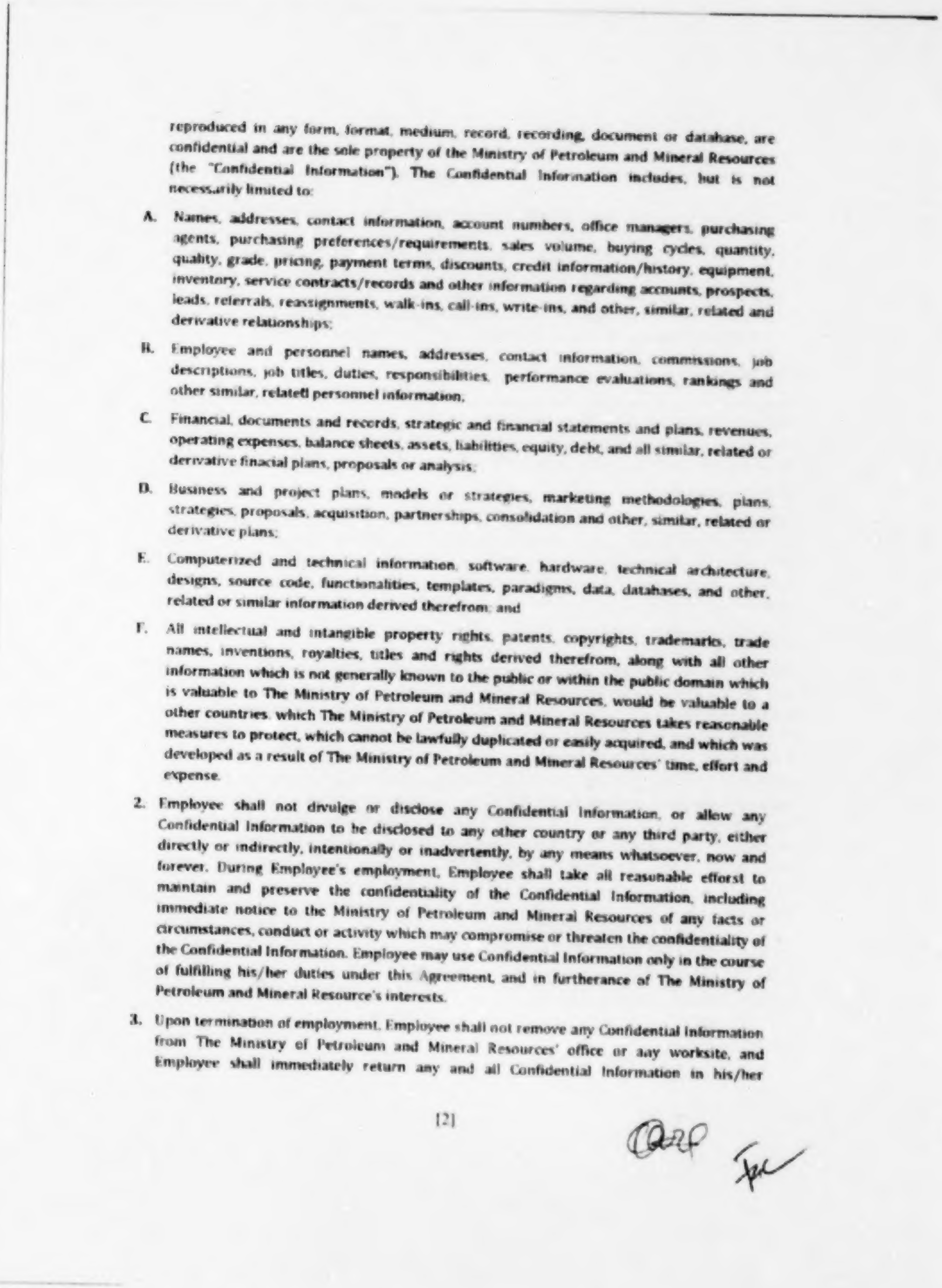
The Employee shall devote the whole of his/her time, attention, and energies to the performance of his/her duties, and shall not, either directly or indirectly, alone or in partnership, be connected with or concerned in any other competing business or pursuit during the term of employment.

Benefits (Salary):

For all services rendered Employee shall receive the sum of *$36,000.00/ (thirty six thousand American Dollar only)* per year, payable in regular installments in accordance with Ministry's customary payroll practices, and subject to all applicable withholding for federal, state and local taxes ("Base Salary").

Confidentiality/Non-Disclosure:

1. All records, documents, data, and information, in any form, whether an original or any copy, written, printed, memorized, computerized, electronic, digital, verbal, handwritten or



reproduced in any form, format, medium, record, recording, document or database, are confidential and are the sole property of the Ministry of Petroleum and Mineral Resources (the "Confidential Information"). The Confidential Information includes, but is not necessarily limited to:

A. Names, addresses, contact information, account numbers, office managers, purchasing agents, purchasing preferences/requirements, sales volume, buying cycles, quantity, quality, grade, pricing, payment terms, discounts, credit information/history, equipment, inventory, service contracts/records and other information regarding accounts, prospects, leads, referrals, reassignments, walk-ins, call-ins, write-ins, and other, similar, related and derivative relationships;

B. Employee and personnel names, addresses, contact information, commissions, job descriptions, job titles, duties, responsibilities, performance evaluations, rankings and other similar, related personnel information;

C. Financial, documents and records, strategic and financial statements and plans, revenues, operating expenses, balance sheets, assets, liabilities, equity, debt, and all similar, related or derivative finacial plans, proposals or analysis;

D. Business and project plans, models or strategies, marketing methodologies, plans, strategies, proposals, acquisition, partnerships, consolidation and other, similar, related or derivative plans;

E. Computerized and technical information, software, hardware, technical architecture, designs, source code, functionalities, templates, paradigms, data, databases, and other, related or similar information derived therefrom; and

F. All intellectual and intangible property rights, patents, copyrights, trademarks, trade names, inventions, royalties, titles and rights derived therefrom, along with all other information which is not generally known to the public or within the public domain which is valuable to The Ministry of Petroleum and Mineral Resources, would be valuable to a other countries, which The Ministry of Petroleum and Mineral Resources takes reasonable measures to protect, which cannot be lawfully duplicated or easily acquired, and which was developed as a result of The Ministry of Petroleum and Mineral Resources' time, effort and expense.

2. Employee shall not divulge or disclose any Confidential Information, or allow any Confidential Information to be disclosed to any other country or any third party, either directly or indirectly, intentionally or inadvertently, by any means whatsoever, now and forever. During Employee's employment, Employee shall take all reasonable efforst to maintain and preserve the confidentiality of the Confidential Information, including immediate notice to the Ministry of Petroleum and Mineral Resources of any facts or circumstances, conduct or activity which may compromise or threaten the confidentiality of the Confidential Information. Employee may use Confidential Information only in the course of fulfilling his/her duties under this Agreement, and in furtherance of The Ministry of Petroleum and Mineral Resource's interests.

3. Upon termination of employment, Employee shall not remove any Confidential Information from The Ministry of Petroleum and Mineral Resources' office or any worksite, and Employee shall immediately return any and all Confidential Information in his/her

possession or control to The Ministry of Petroleum and Mineral Resources. To the extent that any Confidential Information has been disclosed to any third party, Employee shall demand its removal and return to The Ministry of Petroleum and Mineral Resources.

4. These confidentiality/non-disclosure provisions shall survive the termination of this Agreement. The parties agree that any breach or threatened breach of these provisions shall result in immediate and irreparable harm to The Ministry of Petroleum and Mineral Resources, and therefore the parties agree (and Employee expressly consents) that The Ministry of Petroleum and Mineral Resources shall be entitled to the issuance of a temporary restraining order, preliminary and/or permanent injunctive relief prohibiting any such disclosure or threatened disclosure of the Confidential Information.

NON-DISPARAGEMENT:

For a period of one (1) year following any termination of employment, Employee shall not utter, publish, communicate, or cause the communication of any statement which is defamatory, disparaging, untrue, inaccurate, misleading or otherwise may tend to cause the Ministry of Petroleum and Mineral Resources to be held in lower regard.

APPLICABLE LAW:

This Agreement shall be interpreted and enforced according to the law of the civil services (law # 11) of without regard for any conflict of laws provisions. This Agreement shall be binding upon and inure to the benefit of the Ministry of Petroleum and Mineral Resources, its successors, assigns subsidiaries, parent and holding companies, and affiliated and related entities.

REPRESENTATIONS:

Employee has been advised that he/she would be required, as a condition of employment, to sign an Agreement providing for the terms and conditions set forth herein. Employee understands that execution of this Agreement is a condition of employment with the Ministry of Petroleum and Mineral Resources, and by executing this Agreement; Employee freely and voluntarily accepts such condition.

EMPLOYEE ACKNOWLEDGES BY EXECUTING THIS AGREEMENT THAT HE/SHE HAS READ AND UNDERSTANDS THIS AGREEMENT AND ALL OF ITS PROVISIONS. EMPLOYEE HAS HAD AN OPPORTUNITY TO ASK QUESTIONS ABOUT THIS AGREEMENT AND TO CONSULT WITH AN ATTORNEY OF EMPLOYEE'S CHOICE. EMPLOYEE FULLY UNDERSTANDS THE TERMS OF THIS AGREEMENT AND KNOWINGLY AND FREELY AGREES TO ABIDE BY THEM.

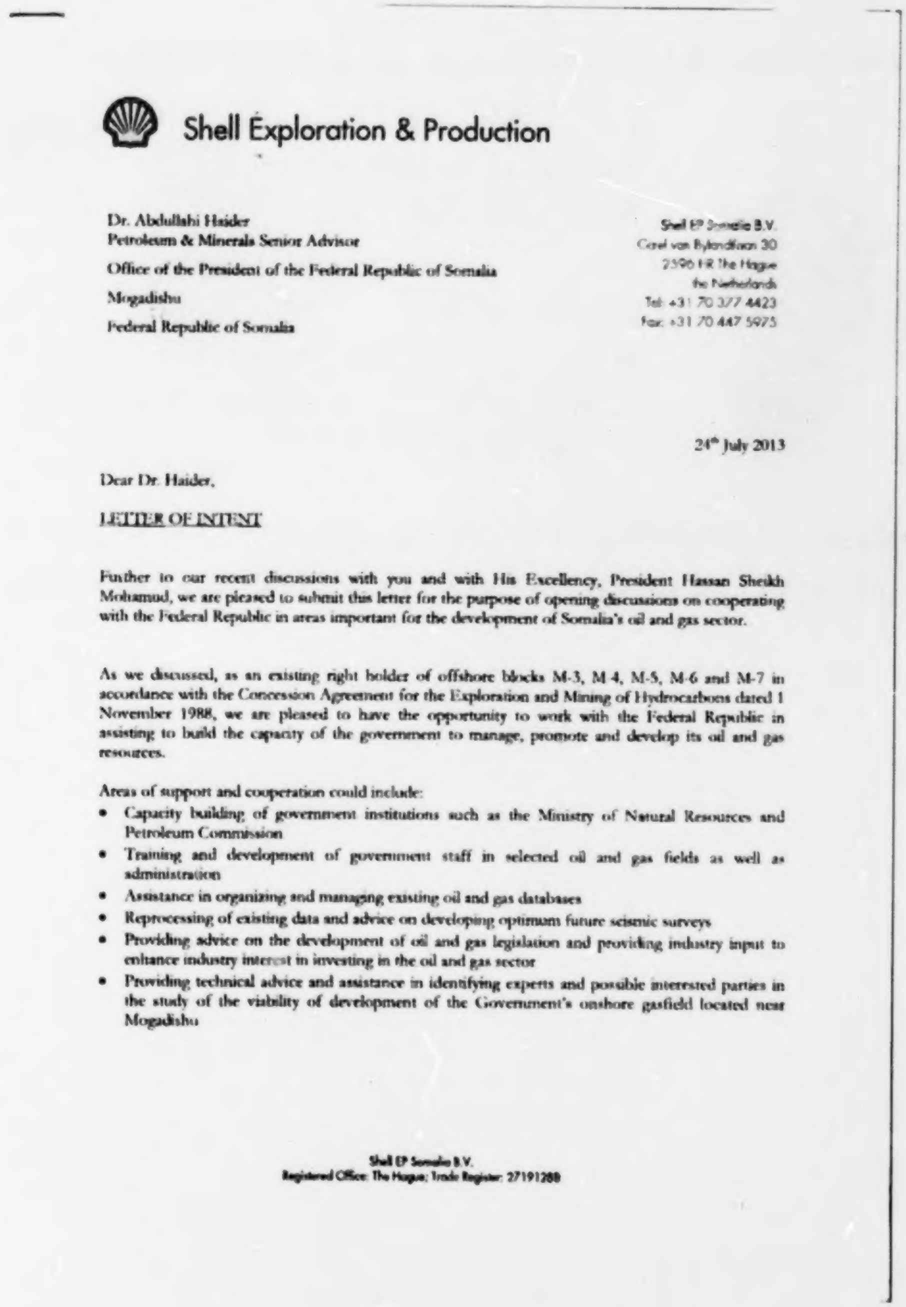
Signed by:

H.E. Daud Mohamed Omar
Minister
Ministry of Petroleum & Mineral Resources

Signed by:

Dr. Farah Abdi Hassan
Director General
Ministry of Petroleum & Mineral
Resources

Annex 2.5.i: First page of a letter from Royal Dutch Shell plc to Dr. Abdullahi Haider Mohamed, a presidential advisor on Soma's payroll



Shell Exploration & Production

Dr. Abdullahi Haider
Petroleum & Minerals Senior Advisor
Office of the President of the Federal Republic of Somalia
Mogadishu
Federal Republic of Somalia

Shell EP Somalie B.V.
Carel van Bylandtlaan 30
2596 HR The Hague
the Netherlands
Tel: +31 70 377 4423
Fax: +31 70 447 5975

24th July 2013

Dear Dr. Haider,

LETTER OF INTENT

Futher to our recent discussions with you and with His Excellency, President Hassan Sheikh Mohamud, we are pleased to submit this letter for the purpose of opening discussions on cooperating with the Federal Republic in areas important for the development of Somalia's oil and gas sector.

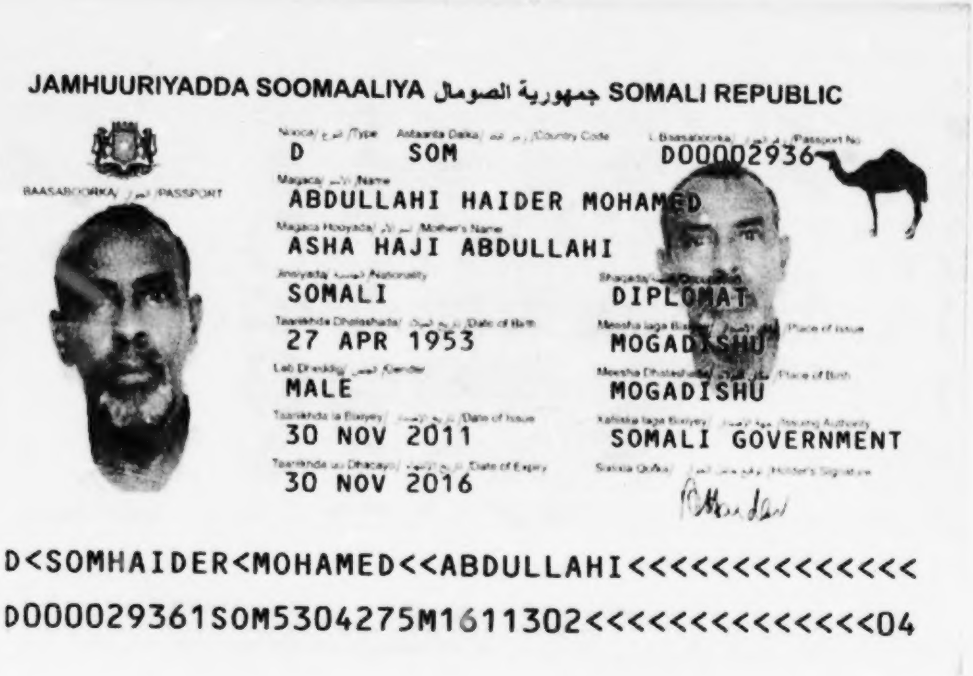
As we discussed, as an existing right holder of offshore blocks M-3, M-4, M-5, M-6 and M-7 in accordance with the Concession Agreement for the Exploration and Mining of Hydrocarbons dated 1 November 1988, we are pleased to have the opportunity to work with the Federal Republic in assisting to build the capacity of the government to manage, promote and develop its oil and gas resources.

Areas of support and cooperation could include:

- Capacity building of government institutions such as the Ministry of Natural Resources and Petroleum Commission
- Training and development of government staff in selected oil and gas fields as well as administration
- Assistance in organizing and managing existing oil and gas databases
- Reprocessing of existing data and advice on developing optimum future seismic surveys
- Providing advice on the development of oil and gas legislation and providing industry input to enhance industry interest in investing in the oil and gas sector
- Providing technical advice and assistance in identifying experts and possible interested parties in the study of the viability of development of the Government's onshore gasfield located near Mogadishu

Shell EP Somalie B.V.
Registered Office: The Hague; Trade Register: 27191288

Annex 2.5.j: Dr. Abdullahi Haider Mohamed's FGS Diplomatic Passport



JAMHUURIYADDA SOOMAALIYA جمهورية الصومال SOMALI REPUBLIC

BAASABOORKA/ الجواز /PASSPORT

Type: D

Country Code: SOM

Passport No: D00002936

Name: ABDULLAHI HAIDER MOHAMED

Mother's Name: ASHA HAJI ABDULLAHI

Nationality: SOMALI

DIPLOMAT

Date of Birth: 27 APR 1953

Place of Issue: MOGADISHU

Gender: MALE

Place of Birth: MOGADISHU

Date of Issue: 30 NOV 2011

Issuing Authority: SOMALI GOVERNMENT

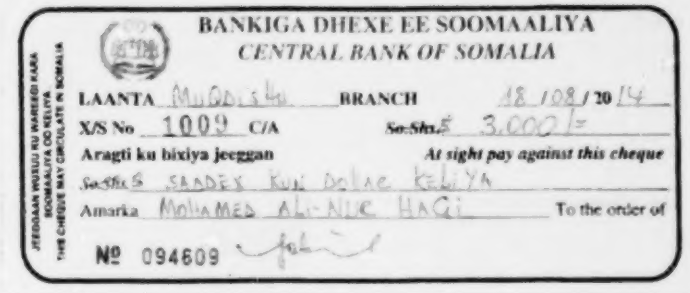
Date of Expiry: 30 NOV 2016

Holder's Signature

D<SOMHAIDER<MOHAMED<<ABDULLAHI<<<<<<<<<<<<<<

D000029361SOM5304275M1611302<<<<<<<<<<<<<<04

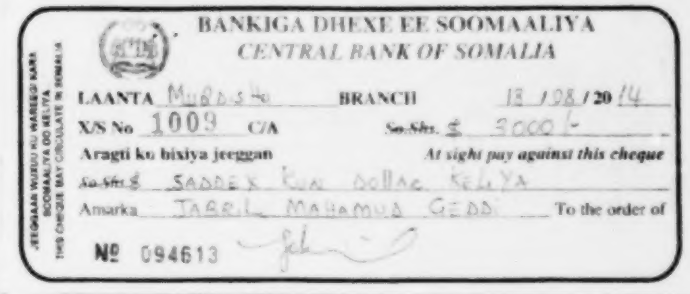
Annex 2.5.k: Central Bank Withdrawal Slips



JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA
THIS CHEQUE MAY CIRCULATE IN SOMALIA

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

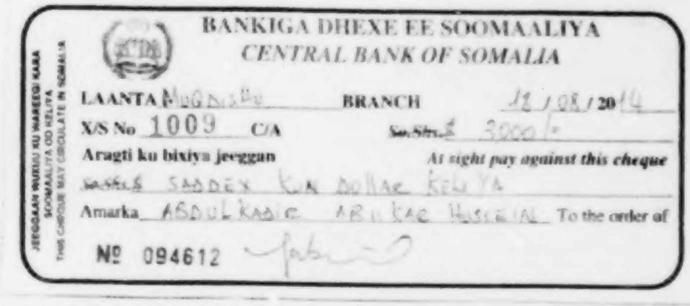
LAANTA MUQDISHO BRANCH 18 / 08 / 2014
X/S No 1009 C/A So.Shs.$ 3,000/=
Aragti ku bixiya jeeggan *At sight pay against this cheque*
So.Shs.$ SADDEX KUN DOLLAR KELIYA
Amarka MOHAMED ALI-NUR HAGI To the order of
№ 094609



JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA
THIS CHEQUE MAY CIRCULATE IN SOMALIA

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

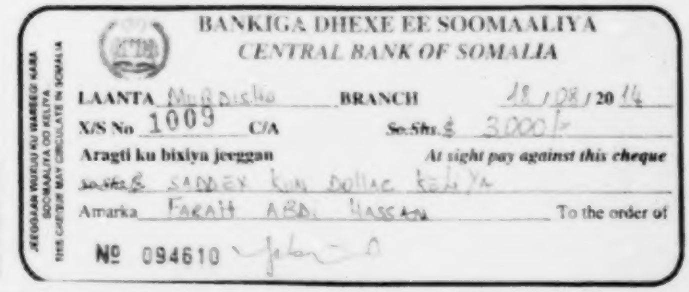
LAANTA MUQDISHO BRANCH 18 / 08 / 2014
X/S No 1009 C/A So.Shs. $ 3000/=
Aragti ku bixiya jeeggan *At sight pay against this cheque*
So.Shs.$ SADDEX KUN DOLLAR KELIYA
Amarka JABRIL MAHAMUD GEDDI To the order of
№ 094613



JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA
THIS CHEQUE MAY CIRCULATE IN SOMALIA

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA MUQDISHO BRANCH 18 / 08 / 2014
X/S No 1009 C/A So.Shs.$ 3000/=
Aragti ku bixiya jeeggan *At sight pay against this cheque*
So.Shs.$ SADDEX KUN DOLLAR KELIYA
Amarka ABDULKADIR ABUKAR HUSSEIN To the order of
№ 094612

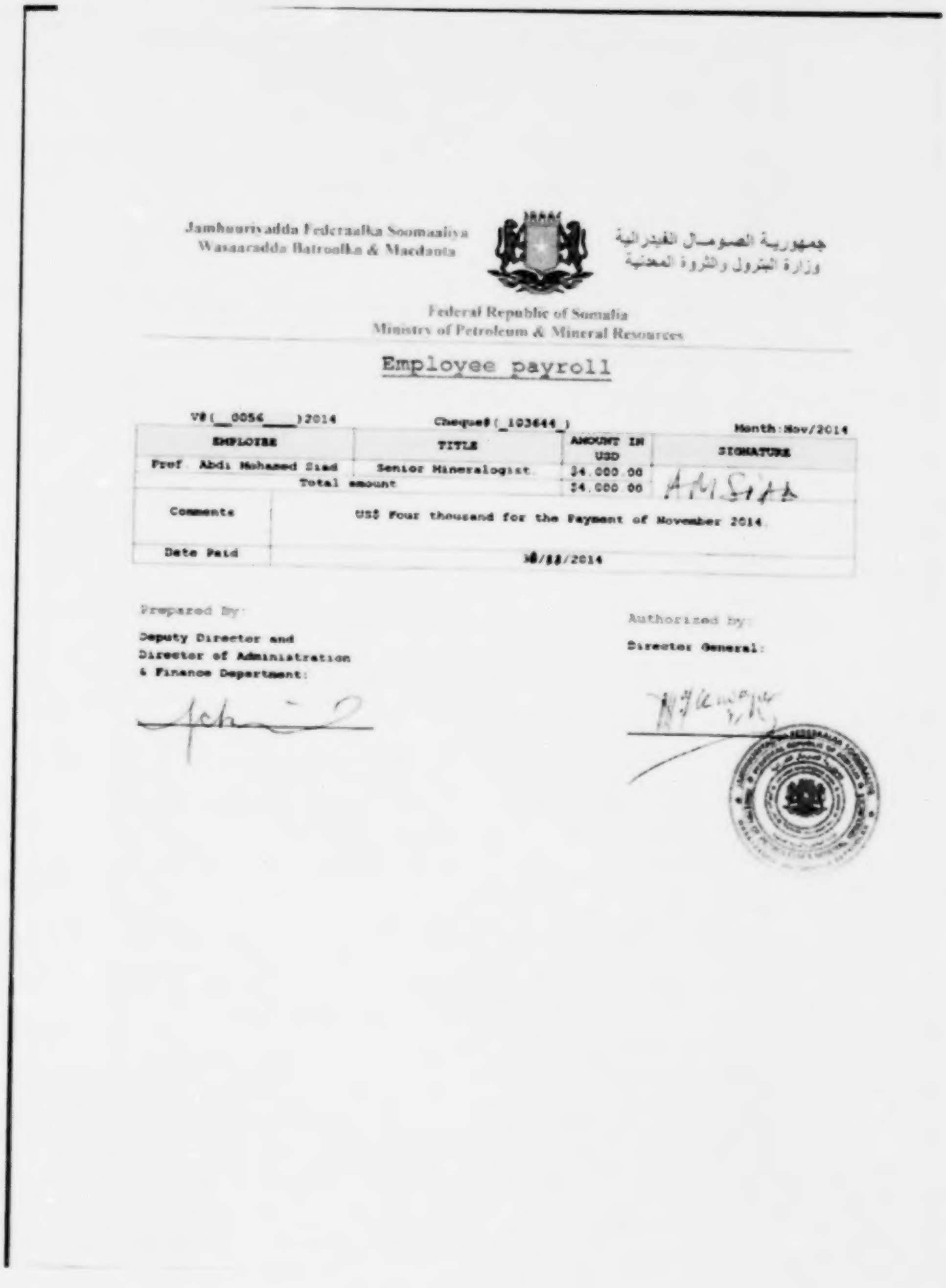


JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA
THIS CHEQUE MAY CIRCULATE IN SOMALIA

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA MUQDISHO BRANCH 18 / 08 / 2014
X/S No 1009 C/A So.Shs.$ 3000/=
Aragti ku bixiya jeeggan *At sight pay against this cheque*
So.Shs.$ SADDEX KUN DOLLAR KELIYA
Amarka FARAH ABDI HASSAN To the order of
№ 094610

Annex 2.5.1: Forged Employee Payslip



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta

جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources

Employee payroll

V#(__0056____)2014 Cheque#(_103644_) Month:Nov/2014

EMPLOYEE	TITLE	AMOUNT IN USD	SIGNATURE
Prof. Abdi Mohamed Siad	Senior Mineralogist.	$4.000.00	A M Siad
Total amount		$4.000.00	
Comments	US$ Four thousand for the Payment of November 2014.		
Date Paid	3[illegible]/[illegible]/2014		

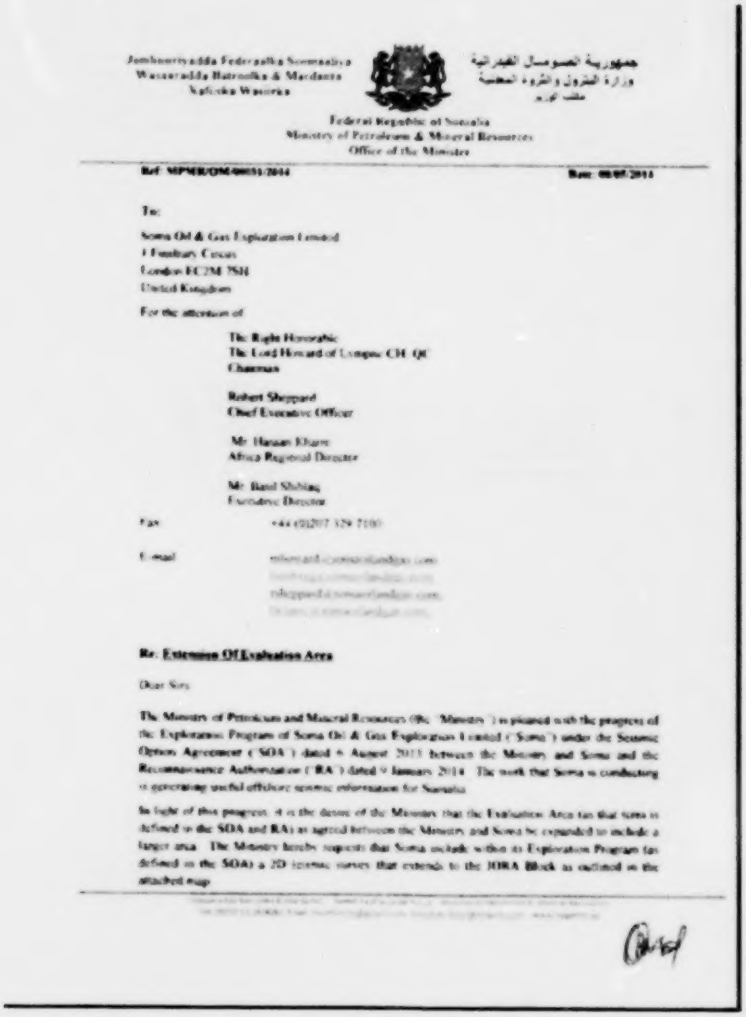
Prepared By:

Deputy Director and
Director of Administration
& Finance Department:

Authorized by:

Director General:

Annex 2.5.m: Evaluation Area Extension



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب الوزير

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources
Office of the Minister

Ref: MPMR/OM/[illegible]/2014 **Date: [illegible]/2014**

To:

Soma Oil & Gas Exploration Limited
4 Finsbury Circus
London EC2M 7SH
United Kingdom

For the attention of

The Right Honorable
The Lord Howard of Lympne CH QC
Chairman

Robert Sheppard
Chief Executive Officer

Mr Hassan Khaire
Africa Regional Director

Mr Basil Shiblaq
Executive Director

Fax +44 (0)207 329 7100

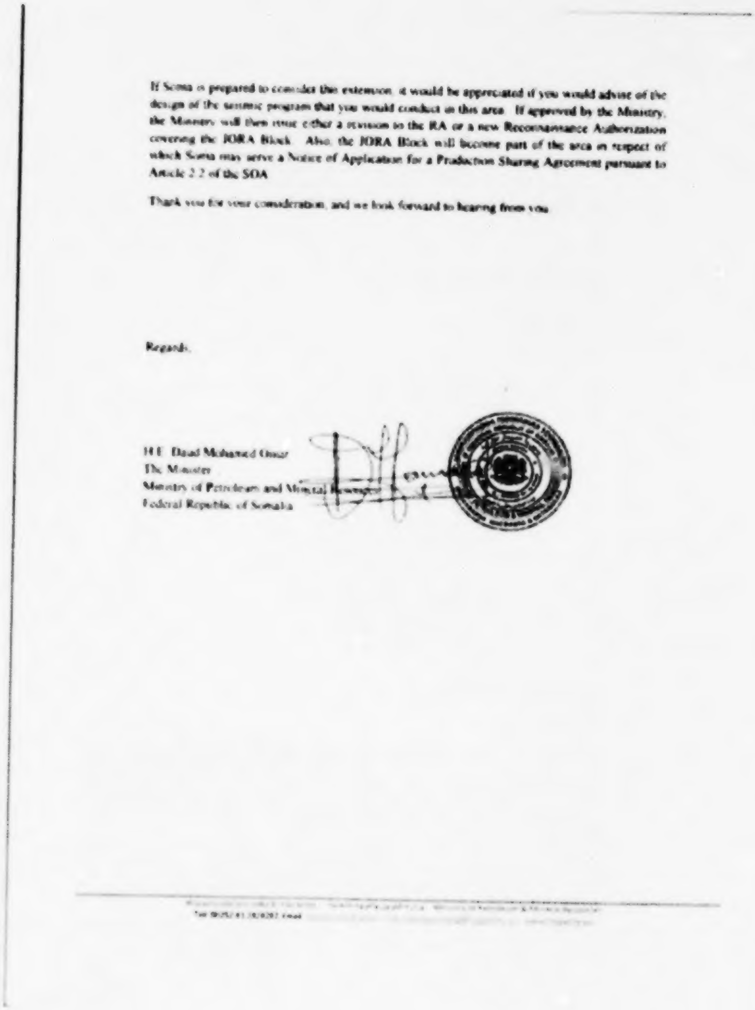
E-mail mhoward@somaoilandgas.com
[illegible]
rsheppard@somaoilandgas.com
[illegible]

Re: Extension Of Evaluation Area

Dear Sirs

The Ministry of Petroleum and Mineral Resources (the "Ministry") is pleased with the progress of the Exploration Program of Soma Oil & Gas Exploration Limited ("Soma") under the Seismic Options Agreement ("SOA") dated 6 August 2013 between the Ministry and Soma and the Reconnaissance Authorisation ("RA") dated 9 January 2014. The work that Soma is conducting is generating useful offshore seismic information for Somalia.

In light of this progress, it is the desire of the Ministry that the Evaluation Area (as that term is defined in the SOA and RA) as agreed between the Ministry and Soma be expanded to include a larger area. The Ministry hereby requests that Soma include within its Exploration Program (as defined in the SOA) a 2D seismic survey that extends to the JORA Block as outlined in the attached map.



If Soma is prepared to consider this extension, it would be appreciated if you would advise of the design of the seismic program that you would conduct in this area. If approved by the Ministry, the Ministry will then issue either a revision to the RA or a new Reconnaissance Authorization covering the JORA Block. Also, the JORA Block will become part of the area in respect of which Soma may serve a Notice of Application for a Production Sharing Agreement pursuant to Article 2.2 of the SOA.

Thank you for your consideration, and we look forward to hearing from you.

Regards,

H.E. Daud Mohamed Omar
The Minister
Ministry of Petroleum and Mineral Resources
Federal Republic of Somalia

Annex 2.5.n: Letter on Revised Offshore PSA Fiscal Terms

soma
OIL & GAS

The Minister of Petroleum & Mineral Resources
Government of the Federal Republic of Somalia
Mecca al Mukarama Road
Ministry of Telecommunications and Postal Services Building
First floor, Right Wing
Mogadishu
Federal Republic of Somalia

For the attention of: HE Daud Mohamed Omar
By email daudbisinle@gmail.com
Cc Director General Farah Abdi Hassan, Ministry of Petroleum & Mineral Resources
fkurweyne@gmail.com
Abdulkadir Abdikar Hussein, Ministry of Petroleum & Mineral Resources
qaadir_abikar@hotmail.co.uk
Mohamed Hagi, Ministry of Petroleum & Mineral Resources,
mohhaggi@gmail.com
Hassan Khaire, Executive Director, Africa, Soma Oil & Gas
hkhaire@somaoilandgas.com

28 November 2014

Your Excellency,

Offshore PSA fiscal terms

The three major items that any prospective partner will evaluate as they decide whether to join Soma in exploring offshore the Federal Republic of Somalia are (i) political risk, (ii) geological prospectivity, and (iii) fiscal terms.

The international oil companies will make their own assessments of both the political risk and the geological prospectivity of the Federal Republic of Somalia.

Therefore, the most critical element (that is within the control of the host country) in attracting international investment into hydrocarbon exploration are the fiscal terms that a country offers. These proposed fiscal terms must take account of the following considerations:

- ***The basin is unproved.*** The companies will need to be sufficiently attracted to take on the high risk exploration obligation. Basin-opening terms are always relatively generous; once there is success and the petroleum systems are proved, the terms can be tightened.
- ***Much of the basin is in deep or ultra deep water.*** The required capital investment for exploring, appraising and developing in deep or ultra deep water is considerably higher than in shallow to medium water depths.

- ***Low oil prices and pressure on the IOCs capital budgets.*** The IOCs have been under pressure to show more capital discipline and they have all announced cutbacks in exploration and development investments. More recently, the collapse of the oil price to under $80/bbl has triggered a further round of cutbacks. The competition for exploration dollars will be intense.
- ***Gas is particularly challenged.*** The 150-200 tcf of gas offshore Tanzania and Mozambique will be competing in the global market with the growing exports from the US (first exports are in 2015). Somalia gas projects will need to be attractive compared to East Africa, especially if the gas/ LNG is to be developed in the next decade or two. In addition, gas to LNG is particularly capital intensive, and in deep water this is especially challenging.

We believe that the oil fiscal terms in the PSA template appended to the Seismic Option Agreement would need to be adjusted for PSAs located in ultra deep water, and that explicit gas fiscal terms need to be included in any offshore PSA.

Proposed offshore fiscal terms

Soma will forward you the proposed fiscal terms for oil with some adjustments and also the terms we propose for ultra deep water oil, gas and ultra deep water gas for the offshore PSAs. Together with the proposed fiscal terms, we will send you a redlined template PSA that incorporates these proposed fiscal terms.

In addition to the proposed royalties and profit shares, we propose that the first term of the offshore PSA be extended from four years to five years for PSAs located in ultra deep water. This recognises the extra planning time required for drilling in ultra deep waters where wells are particularly costly (typically > US$100 million) and only a small number of rigs have the capability to operate.

We will also send you a review of comparative fiscal terms from relevant frontier provinces and an analysis of the revenues that would come to the Federal Republic of Somalia should exploration and development be successful for four scenarios of oil, ultra deep water oil, gas and ultra deep water gas. We believe that the proposed offshore fiscal terms are a good balance between the need to attract significant frontier exploration investment and the opportunity for substantial revenues to the Federal Republic of Somalia should that exploration be successful.

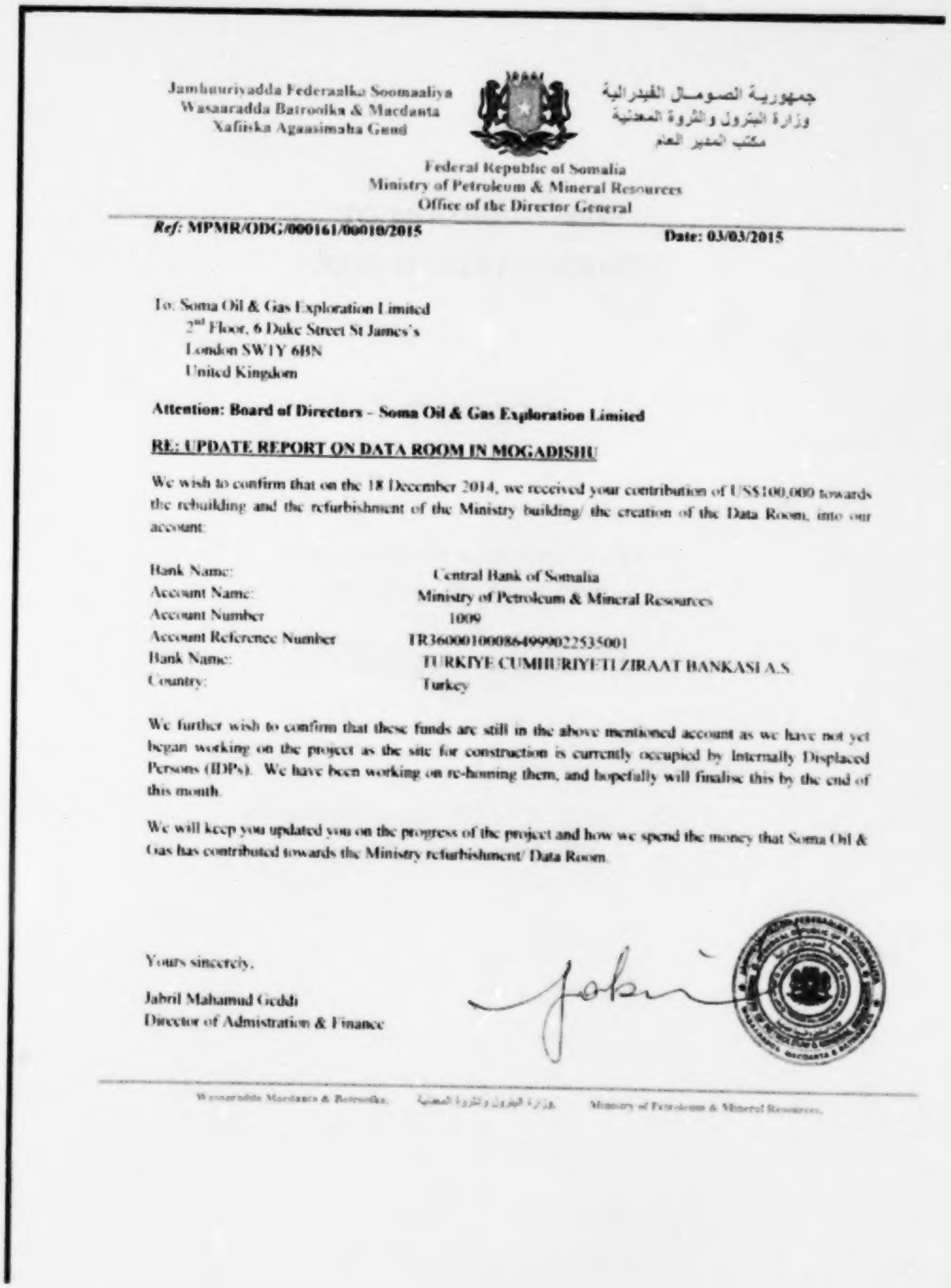
Soma will be sharing these fiscal terms for the offshore PSAs with the potential partners in December 2014 in order to generate the interest necessary for them to join us in early 2015 in making applications for Production Sharing Agreements.

We stand ready to discuss these proposed fiscal terms with your team as soon as practical.

Yours sincerely,

Robert Sheppard
Chief Executive Officer
Soma Oil & Gas

Annex 2.5.o: Data Room Letter



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Agaasimaha Guud

جمهورية الصومـال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب المدير العام

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources
Office of the Director General

***Ref:* MPMR/ODG/000161/00010/2015** **Date: 03/03/2015**

To: Soma Oil & Gas Exploration Limited
2nd Floor, 6 Duke Street St James's
London SW1Y 6BN
United Kingdom

Attention: Board of Directors – Soma Oil & Gas Exploration Limited

RE: UPDATE REPORT ON DATA ROOM IN MOGADISHU

We wish to confirm that on the 18 December 2014, we received your contribution of US$100,000 towards the rebuilding and the refurbishment of the Ministry building/ the creation of the Data Room, into our account:

Bank Name:	Central Bank of Somalia
Account Name:	Ministry of Petroleum & Mineral Resources
Account Number	1009
Account Reference Number	TR360001000864999022535001
Bank Name:	TURKIYE CUMHURIYETI ZIRAAT BANKASI A.S
Country:	Turkey

We further wish to confirm that these funds are still in the above mentioned account as we have not yet began working on the project as the site for construction is currently occupied by Internally Displaced Persons (IDPs). We have been working on re-housing them, and hopefully will finalise this by the end of this month.

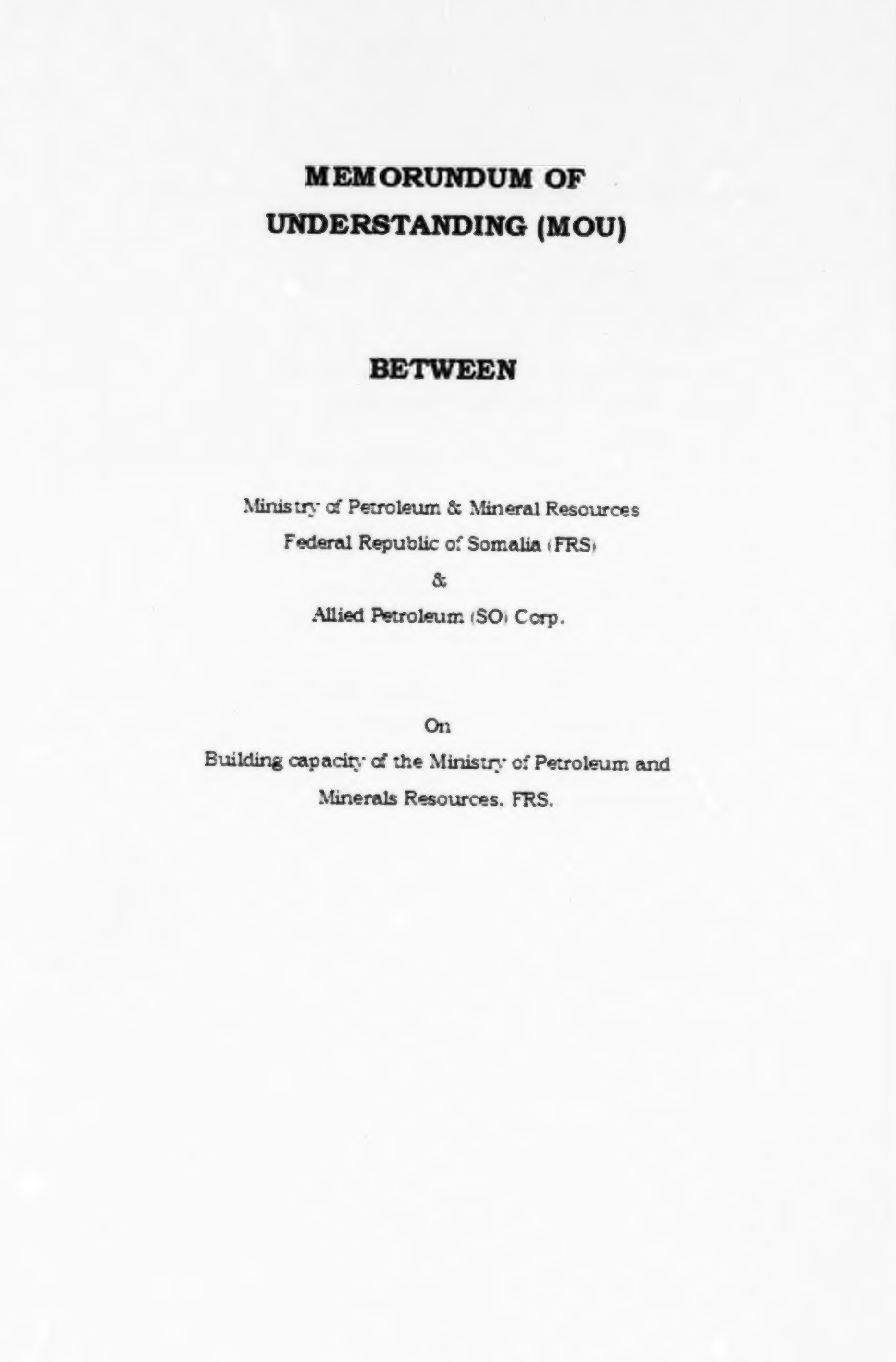
We will keep you updated you on the progress of the project and how we spend the money that Soma Oil & Gas has contributed towards the Ministry refurbishment/ Data Room.

Yours sincerely,

Jabril Mahamud Geddi
Director of Admistration & Finance

Wasaaradda Macdanta & Batroolka, وزارة البترول والثروة المعدنية، Ministry of Petroleum & Mineral Resources.

Annex 2.5.p: Allied Petroleum Memorandum of Understanding



MEMORUNDUM OF UNDERSTANDING (MOU)

BETWEEN

Ministry of Petroleum & Mineral Resources
Federal Republic of Somalia (FRS)
&
Allied Petroleum (SO) Corp.

On
Building capacity of the Ministry of Petroleum and Minerals Resources, FRS.

The Ministry of Petroleum and Mineral Resources (the **"Ministry"**) is pleased with the progress of advancing the mutual interest of both parties, under the expected PSA's between the Ministry and Allied Petroleum (SO) Corp (**"Allied"**) (collectively the **"Parties"**).

The Ministry hereby requests that Allied provide financial support to the Ministry for capacity building, enhancing the core capability of the Ministry and its functionality, in the following areas:

1. Hiring and contracting of qualified technical experts, consultants and advisors from within Somalia and internationally. The support covers the costs of:

   a. **Salary or consulting fees;**
   b. **Accommodation allowances; and**
   c. **Business related travel.**

2. According to the terms defined in this MoU, Allied agrees to pay salaries for a maximum of eight (8) consultants, advisors or employees engaged by the Ministry. Such salaries in each case will not exceed US $5,000 per month for each person (**"Capacity Support Salaries"**) over a 24-month period starting from the Commencement Date of this MoU. Allied also agrees to pay the cost of office equipment, transportation and other working tools deemed appropriate and necessary which shall not exceed US $60,000 and shall be paid at a time to be agreed between the Parties.

3. Therefore Allied agrees to pay a total aggregate amount in relation to the Ministry's request for this specified capacity support not exceeding US $540,000 per year (the **"Total Capacity Support Per year"**) in installments on dates to be agreed between the Parties to the official account of the Ministry.

4. Allied intends to support the rehabilitation of the Ministry's offices in Mogadishu; this may include furnishing and equipping the Ministry's office, including the establishment of a Data Room. The Parties shall agree the form and amount of support to be provided by Allied. Allied has agreed to undertake a needs and viability assessment on a date to be agreed between the Parties.

5. Allied shall make the payment of the Capacity Support Salaries, pursuant to this MOU, to the designated official bank account of the Ministry, on a date on each month to be agreed between the Parties.

1.	Bank Name	International Bank of Somalia
2.	Branch	Main Branch
3.	Customer ID	0015001
4.	Account Name	Ministry of Petroleum & Mineral Resources
5.	IBAN	So22012700015001301840010

6. The Ministry shall provide sufficient supporting information to allow Allied to confirm the use of each payment made by Allied pursuant to this MoU.

7. The Ministry shall provide monthly written Financial reports to Allied in relation to the Capacity Support Salaries. The reports shall provide the following information to Allied in respect of the Capacity Support Salaries:

   a. The names of the proposed employees, consultants or advisors, and the process followed by the Ministry in selecting such persons;
   b. The function, role and terms of reference for the position;
   c. The duration of the appointment; and
   d. A copy of the contract of employment for each such proposed persons (whose salary costs are to be paid for by Allied.)

8. Each contract of services for each person as contemplated by this MoU letter shall be on terms and conditions that are in all material respects standard in relation to their role and status.

9. Following the completion of expenditure by the Ministry of the Total Capacity Support paid by Allied, the Ministry shall confirm in writing to Allied the usage of funds for such designated purpose.

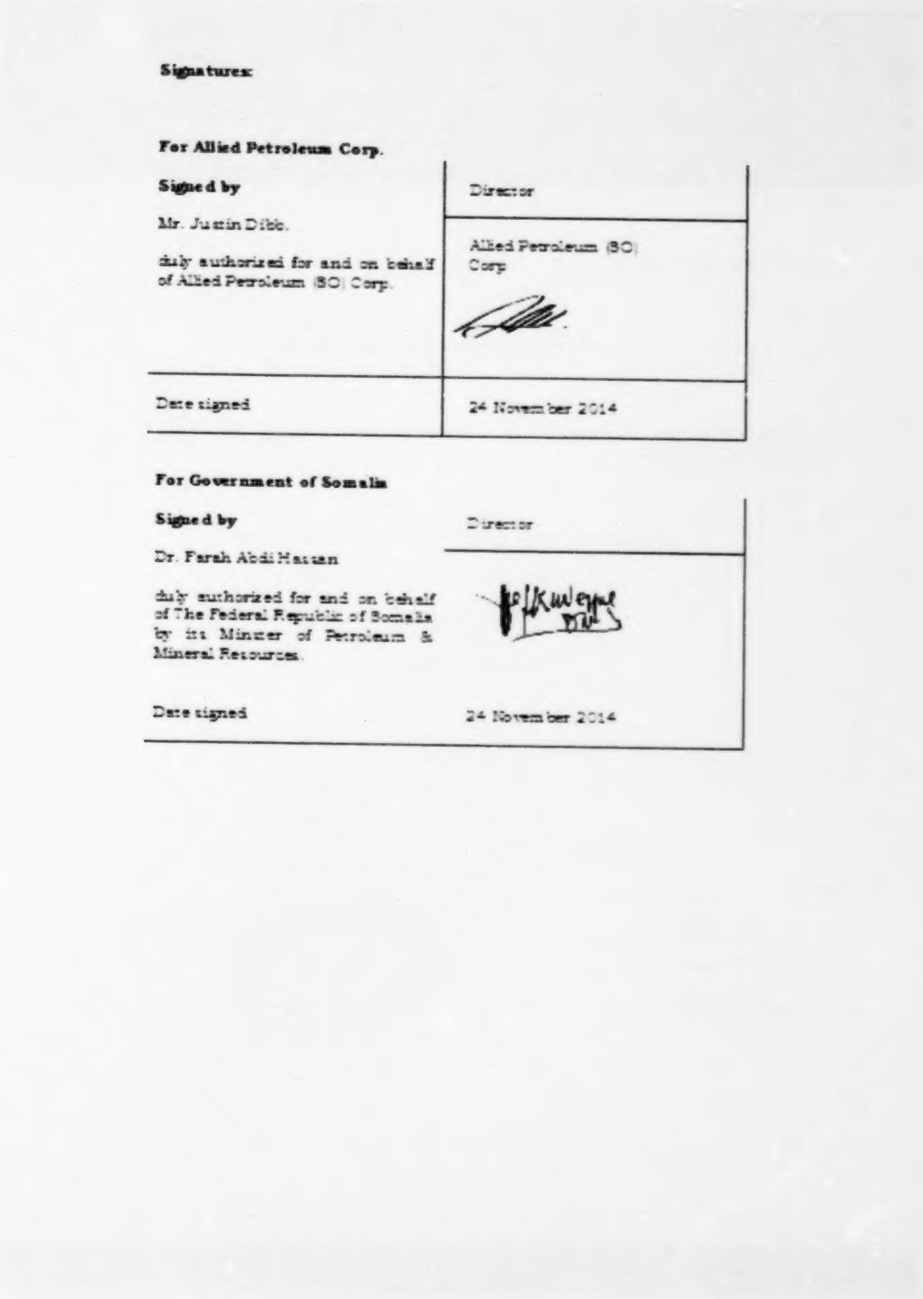
10. The Ministry confirms that they will comply with all relevant International Corrupt Practices laws, in the process of:

   a. Execution of this MoU;
   b. Proper utilization of financial support by Allied and its documentation; and
   c. Hiring and contracting of local and international technical experts, consultants and advisors.

11. The Commencement Date of this MoU shall be the date, being 90 days following signature of PSA's covering Offshore Jore A, B, C, and D.

Please confirm your acknowledgement of the proposals set out in this MoU by countersigning this side letter and returning it to us.

Yours sincerely



Signatures:

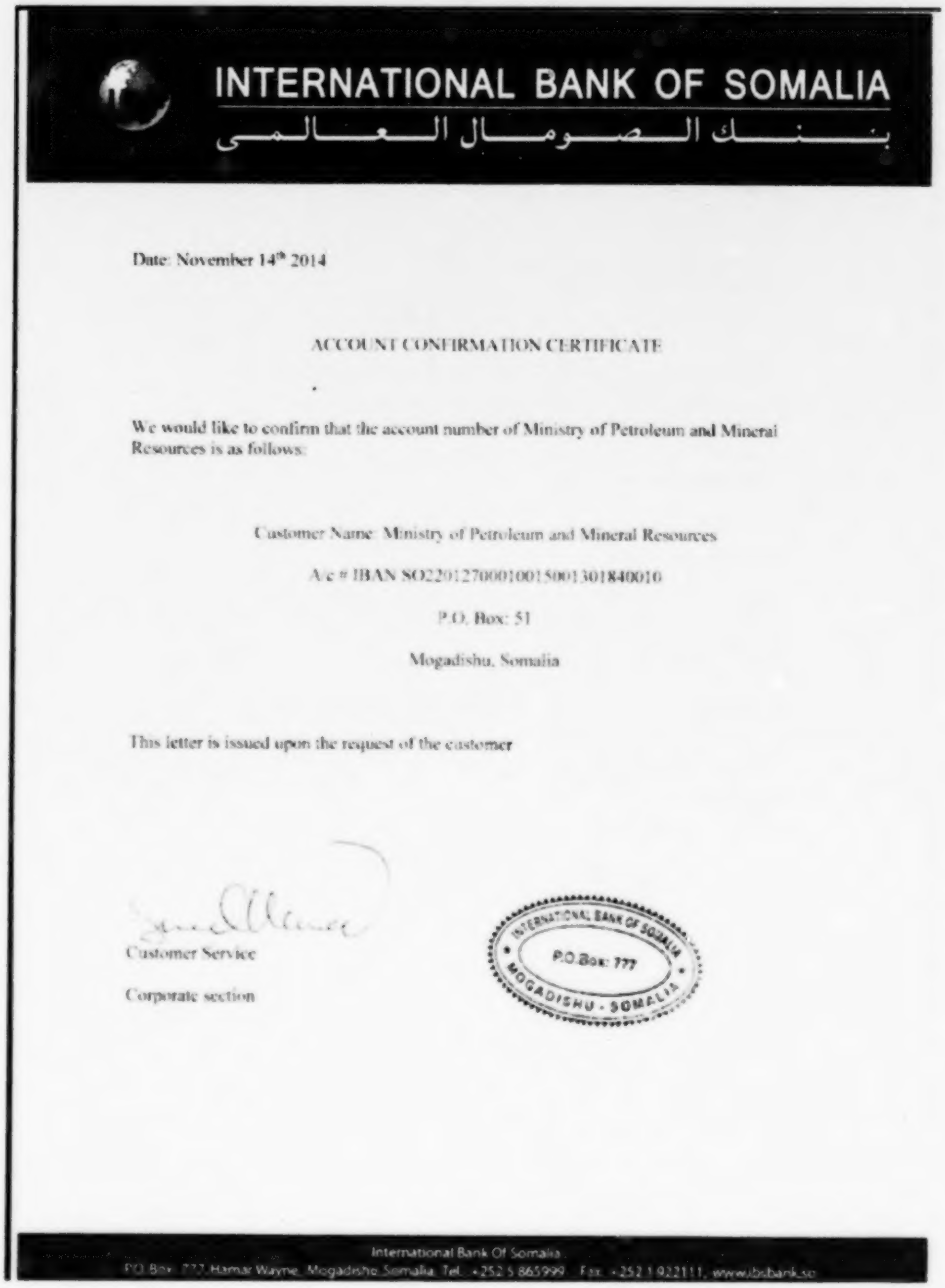
For Allied Petroleum Corp.

Signed by Mr. Justin Dibb. duly authorized for and on behalf of Allied Petroleum (SO) Corp.	Director Allied Petroleum (SO) Corp
Date signed	24 November 2014

For Government of Somalia

Signed by Dr. Farah Abdi Hassan duly authorized for and on behalf of The Federal Republic of Somalia by its Minster of Petroleum & Mineral Resources.	Director
Date signed	24 November 2014

Annex 2.5.q: Ministry's International Bank of Somalia Account



INTERNATIONAL BANK OF SOMALIA
بنك الصومال العالمى

Date: November 14th 2014

ACCOUNT CONFIRMATION CERTIFICATE

We would like to confirm that the account number of Ministry of Petroleum and Mineral Resources is as follows:

Customer Name: Ministry of Petroleum and Mineral Resources

A/c # IBAN SO22012700010015001301840010

P.O. Box: 51

Mogadishu, Somalia

This letter is issued upon the request of the customer

Customer Service

Corporate section

INTERNATIONAL BANK OF SOMALIA
P.O.Box: 777
MOGADISHU - SOMALIA

International Bank Of Somalia
P.O Box 777 Hamar Wayne, Mogadisho Somalia, Tel. +252 5 865999 Fax. +252 1 922111, www.ibsbank.so

Annex 3

Public financial management and misappropriation

Annex 3.1: SNA financial management and misappropriation

(STRICTLY CONFIDENTIAL)[*]

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[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 3.2: Misappropriation of funds at the Somali Embassy in Nairobi

1. The flow of funds between the FGS and its embassies has been subject to allegations of corruption and the misappropriation of some of those funds. The Monitoring Group revealed in previous reports (S/2012/544, paragraphs 72 and 73 and S/2013/413, paragraphs 18-21) financial irregularities concerning the production and issue of passports and the misuse of funds collected by Somali Government missions overseas. The lack of transparency and accountability and the absence of financial discipline continue to be an issue. Money collected from Somali nationals for passports or other official documents is not always accounted for in full. In fact some Somali heads of mission consider the revenues collected or the money disbursed by the FGS as their own personal reserve. There are no standard procedures for the collection of fees for passports and other travel documents. Due to the fact that Somali banks are not fully functional, the monies collected internationally are transferred to Mogadishu through remittance companies (*hawalas*) or sometimes in cash.

Misappropriation of funds at the Somali Embassy in Nairobi

2. The Monitoring Group has discovered serious irregularities concerning the management of public financial resources at the Somali Embassy in Nairobi and has conducted an investigation into funds collected by the embassy for passports and other travel documents for the period January 2014 to April 2015.

3. The former Somali Ambassador, Mohamed Ali Nur "Americo", had been in office for more than 10 years and was the longest-serving diplomat in Kenya. He was recalled to Mogadishu in early April 2015. The newly nominated Jamal Hassan began his mandate on 4 August 2015 after the Government of Kenya accepted his credentials. Sources informed the Monitoring Group that approximately 10 days prior to his recall Ambassador "Americo" brought a team of IT specialists into the Embassy, allegedly to perform updates on the embassy's computers. In fact, information was removed from the computers and many documents were also destroyed.[1]

4. Every Somali national applying for a passport in Nairobi has to pay USD 130 and KES 2,000 (USD 19) (available in annex 3.2.a). The Ministry of Interior requires that USD 98 of the fee is transferred to its Dahabshiil account in Mogadishu and USD 32 is kept by the embassy. That means that, for each passport issued, the Nairobi embassy keeps USD 51, including the KES fee. For an emergency travel document, the embassy charges USD 55.[2] According to high-ranking FGS officials interviewed by the Monitoring Group, all of the money collected by embassies for passports and

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[1] SEMG interviews with former Somali diplomat and sources close to the Somali Embassy in Nairobi, 15 April and 10 July 2015.

[2] For this kind of document, the embassy retains the entire fee.

travel documents should be transferred to the Treasury Single Account (TSA) at the Central Bank and from there the FGS would disburse funds to its embassies according to their needs.[3]

5. Applicants for travel documents at the Nairobi Embassy deposit the relevant fees into two accounts in the Nairobi branch of the Transnational Bank.[4] Over 7,500 Somali nationals applied for travel documents during the timeframe of the investigation. The total amount collected in both accounts for this timeframe was USD 960,836. Two remittance companies, Amal Express and Dahabshiil, were used to transfer the funds to Somalia. The assessments of the Group are based on the statements of the two accounts for the period mentioned above and the transfer receipts from the two *hawalas* for the same period.

6. According to bank statements, cash withdrawals were made from the two designated deposit accounts on a regular basis but the amount of money withdrawn was not consistent with the sums transferred to Mogadishu. According to receipts from the two *hawalas*, the total amount transferred between January 2014 and April 2015 to the Ministry of Interior's Dahabshiil account in Mogadishu was USD 486,258. That leads to a difference of USD 474,578. The receipts show that cash transfers were made mainly by an individual named Mohamed Ahmed Anwar (see annex 3.2.b).[5] The Group learned that he was not even an employee of the Embassy but a friend of Ambassador "Americo". In some rare cases, the ambassador himself made transfers to Mogadishu.

7. The Ministry of Foreign Affairs allocates USD 49,200 for the operation of the Embassy in Nairobi per quarter. For the period mentioned above, in addition to the USD 474,578 from travel document fees that was not transferred to Mogadishu, the FGS allocated an additional USD 246,000 to the Embassy. This adds up to a total Embassy income of USD 720,578.

8. Ambassador "Americo" was recalled to Mogadishu on 2 April 2015. On 4 April, Anwar made six cash withdrawals totalling USD 9,000. At the close of business on 4 April, the two embassy

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[3] SEMG interviews with Minister of Finance Mohamed Aden Ibrahim by telephone, 10 September 2015, and Fawzia Yusuf H. Adam, Member of Parliament and former Minister of Foreign Affairs and International Cooperation and Deputy Prime Minister by email, 12 September 2015. Ibrahim and Adam confirmed to the SEMG that according to Somali legislation the money collected by embassies must be transferred to the Treasury Single Account (TSA) at the Central Bank. Adam also confirmed that during her mandate she gave instructions to all Somali foreign missions to transfer sums collected to the Central Bank, but that very few complied.

[4] At the Transnational Bank's Nairobi branch, the Somali Embassy in Nairobi's KES account number is 15555/500TCA00/1 and USD account number is 15555/500TCA01/17.

[5] When contacted by SEMG, Mohamed Ahmed Anwar initially agreed on 9 September 2015 to a meeting, from which he then withdrew on 10 September 2015, due to an unexpected trip outside Nairobi. He confirmed by telephone on 10 September 2015 that he had never been an employee of the Embassy but is a friend of Ambassador "Americo", and was acting as his private accountant. He also denied knowing anything about the way in which the Embassy's money was spent and that his only job was to manage the Embassy's bank accounts.

accounts were almost empty, with respective balances of only KES 534 [USD 5] and USD 400. This means that the Somali Embassy in Nairobi spent USD 720,178 over 15 months. For comparison, according to the Appropriation Act for the 2015 Budget, the Ministry of Health received USD 793,032 for a period of 12 months, the Ministry of Labour and Social Affairs USD 760,116, the Ministry of Youth and Sport USD 572,220.

9. The Monitoring Group corresponded with Ambassador "Americo" by telephone and email between 7 September and 12 September 2015 while he was in London. When asked about the passport money he stated he used it for

> …assistance of refugees in Dadaab and Kakuma, rent of vehicles for dignitaries, assistance to Somalis accused of piracy in Mombasa, assistance of needy Somalis in Kenya, i.e. tickets, school fees, hospital fees, etc. Function for the Embassy. Assist Somalis throughout Kenya who needed assistance. Paid for school fees for students who got good grades for encouragement. Held seminars for the youth in Eastleigh, Mombassa and other cities. Paid hospital fees for mothers, elders and other Somalis who could not pay their hospital fees (sic).[6]

He also claimed that all these expenses were documented.

10. The Monitoring Group contacted the Somali Embassy in Nairobi to verify if the above expenses were accounted for. Embassy officials who were in office when Ambassador "Americo" handed over his duties informed the Monitoring Group that the former ambassador passed on no documents whatsoever at his departure and that even the rent payments for the embassy building were USD 6,000 in arrears. The Monitoring Group also understands that Ambassador "Americo" personally handled the salaries of embassy employees and all expenses.

Chinese Government grant and confusion over legal payments

11. In addition, the Monitoring Group discovered that the Somali Embassy in Nairobi received a USD 1 million grant in April 2013 from the Chinese Government intended for the FGS (see annex 3.2.c), and only transferred USD 479,314 to the Central Bank of Somalia. The remainder was allegedly used to pay legal fees to Ibrahim, Issack & Company in Nairobi for a lawsuit concerning a Somali Government property in the Kenyan capital. In the 1990s, the last Somali ambassador of the Siad Barre regime sold the premises of the Somali Embassy in Nairobi to a local businessman.[7] Somali authorities challenged the sale at the Nairobi High Court and won the property back in 2013.

12. In a letter addressed to the Finance Minister of Somalia, dated 16 September 2013 (available in annex 3.2.d), the then-Minister of Foreign Affairs and International Cooperation and Deputy Prime

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[6] Email to SEMG from Ambassador "Americo", 8 September 2015.

[7] The sale included both the former embassy building and over 9,000 m^2 of premium real estate situated in Lower Kabete, Westlands, Nairobi.

Minister Fawzia Yusuf H. Adam claimed that Ambassador "Americo" had received the Chinese grant into his own personal account and not into the account of the Embassy. Furthermore, in this letter, Adam stated that Ambassador "Americo" allegedly paid USD 517,686 for legal fees to Ibrahim, Issack & Company law firm in Nairobi. Adam also stated that Ambassador "Americo" got approval for this expenditure from her deputy, Mohamed Nur Ga'al, then State Minister of the Ministry of Foreign Affairs and International Cooperation, while she was away on official business. She claimed however that before leaving Mogadishu, she had appointed the Minister of Justice and Religious Affairs to act on her behalf, not Ga'al. Adam also stated at the end of the letter that the law firm's original invoice for services rendered was only USD 250,000 and that USD 140,000 had been allocated in 2011 for this purpose by then-Prime Minster Mohamed Abdulahi Mohamed "Farmaajo".

13. Adam also noted that the law firm's receipt for the payment received indicated the sum of KES 517,686 (USD 4,916) and not USD. The Monitoring Group verified Adam's allegations and can confirm that on 4 April 2011, then-Prime Minister "Farmaajo" wrote a letter (available in annex 3.2.e) authorising the releasing of USD 140,000 to

> …cover legal fees for solicitors incurred in connection with the recovery of Somali Embassy's assets in Kenya. Furthermore the aforementioned fund is additionally intended for other expenses that are owed by the injured people that were flown from Mogadishu to hospitals in Kenya. The money should be handed to Ambassador Mohamed Ali Nur.[8]

The money was released to the Embassy on 11 April 2011, where Ambassador "Americo" was the receiving official (available in annex 3.2.f).

14. On 25 April 2013, the law firm Ibrahim, Issack & Company sent a letter to "Americo" acknowledging receipt of payment for USD 517,686 for fees, costs and disbursements (available in annex 3.2.g). However a receipt from the same law firm obtained by the Monitoring Group dated 23 April 2013 indicates that sum of KES 517,686 (USD 4,916) was received from the Somali Embassy, as asserted by Adam (available in annex 3.2.h). The Group cannot confirm the exact amount paid to the law firm, but the fact that a payment of over USD 500,000 is far too large for services rendered in connection with such a lawsuit raises serious questions.[9] The Monitoring Group could not verify Adam's claim that the law firm's original invoice totalled only USD 250,000, but the Group has obtained information from multiple sources that the Somali business community in Nairobi also contributed substantially to the legal expenses relating to the retrieval of the former embassy premises.[10]

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[8] Unofficial translation.

[9] SEMG interviews with lawyers, accountants and real estate experts in Nairobi, May to August 2015.

[10] SEMG interviews with former Somali diplomat and high-ranking FGS official in Nairobi, 15 April 2015 and 3 August 2015.

15. The Monitoring Group contacted Ambassador "Americo" in order to give him the opportunity to reply. Regarding the account into which the Chinese Government grant was transferred, Ambassador "Americo" produced evidence that he had told the Chinese to transfer the funds an account opened at Commercial Bank of Africa (CBA) in the name of the Somali Embassy and not the usual Embassy account at the Transnational Bank. Embassy officials confirmed the existence of the CBA bank account and informed the Group that Ambassador "Americo" closed it just prior to his recall to Mogadishu. Mohamed Ahmed Anwar also confirmed the existence of the CBA account and its closure by Ambassador "Americo". The existence of another Embassy account at different bank may have created the confusion that led to the allegation that Ambassador "Americo" had used his personal account to receive the Chinese funds.

16. Ambassador "Americo" denied having knowledge of the Somali business community in Nairobi's involvement in the payment of the legal fees for retrieval of the former embassy premises. He also stated that, to his knowledge, the Transitional Federal Government only released USD 50,000 to cover these legal fees, during the time that Nur Hassan Hussein "Nur Adde" was Prime Minister.[11] Ambassador "Americo" stated that he does not recall the USD 140,000 allocated by Prime Minister "Farmajo" in April 2013. The information regarding the USD 50,000 released by Prime Minister Nur Hassan Hussein is new to the Group and raises further questions relating to this case.

17. Ambassador "Americo" also told the Group that the Auditor General, Nur Farah, who has looked into the case of the Chinese Government grant has cleared him of all suspicions.[12] However, in a telephone interview with the Group on 11 September 2015, the Auditor General confirmed that while an investigation into the Chinese grant is ongoing, no conclusions had been reached.

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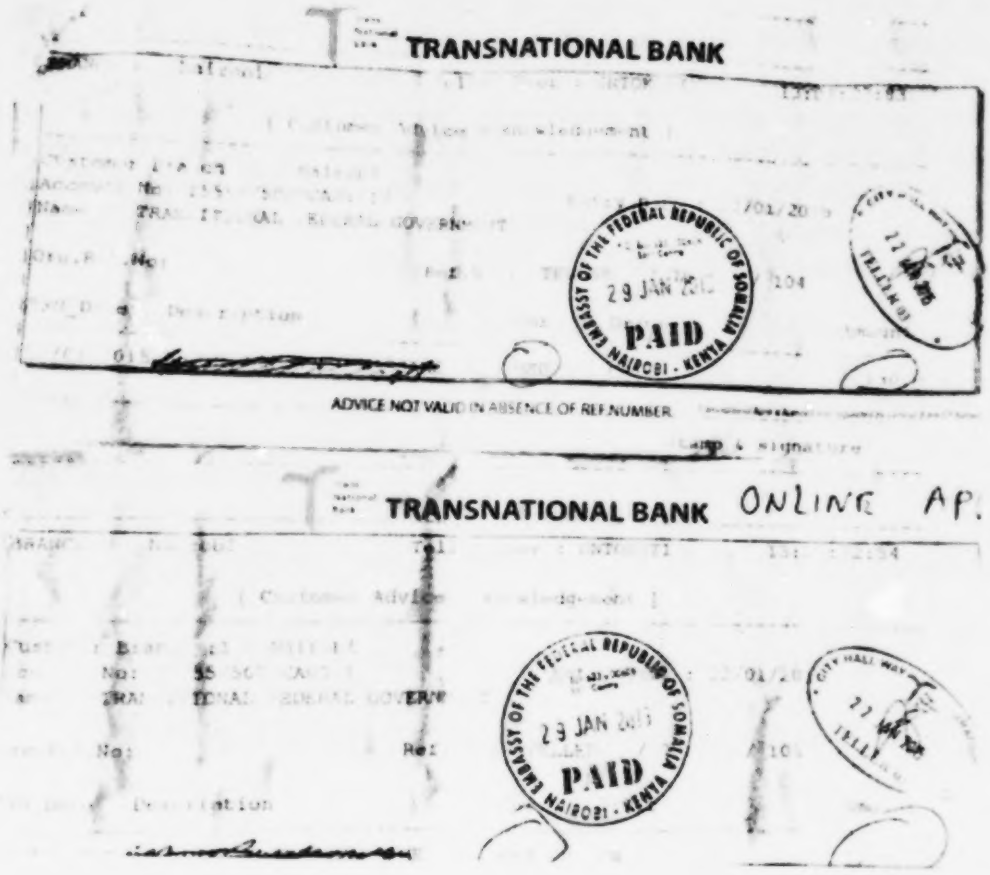
[11] Nur Hassan Hussein was Prime Minister of the Transitional Federal Government of Somalia from November 2007 to February 2009.

[12] All responses from Ambassador "Americo" relating to the former embassy premises lawsuit and the Chinese Government grant are sourced from SEMG interviews by telephone and email with "Americo" between 7 to 12 September 2015.

Annex 3.2.a: Receipts for passport fee payments at Somali Embassy in Nairobi



TRANSNATIONAL BANK

[Customer Advice [illegible]]

Name TRA[illegible] FEDERAL GOVERNMENT

29 JAN 2015

PAID

ADVICE NOT VALID IN ABSENCE OF REF NUMBER

Stamp & signature

TRANSNATIONAL BANK ONLINE AP.

[Customer Advice [illegible]]

No:

TRA[illegible]TIONAL FEDERAL GOVERN[illegible]

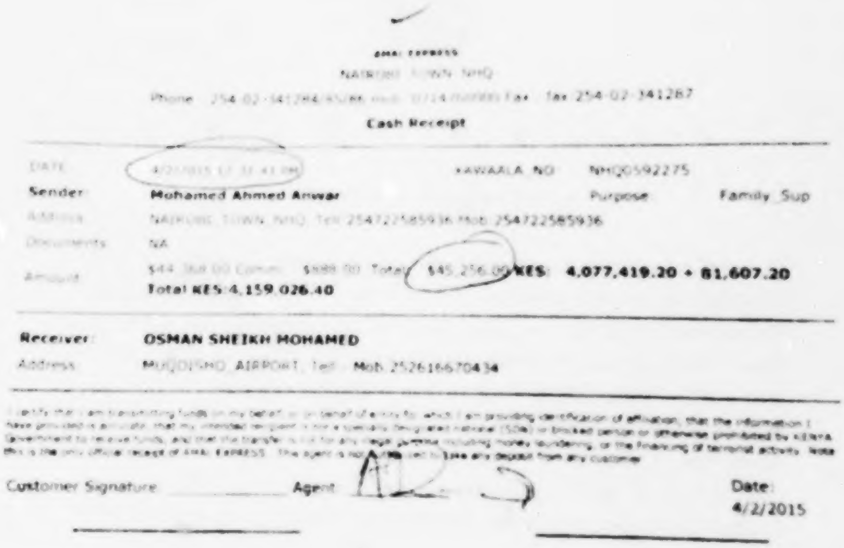
No: Ref

Description

29 JAN 2015

PAID

Annex 3.2.b: Receipt for money transfer to Mogadishu by Mohamed Ahmed Anwar



AMAL EXPRESS
NAIROBI TOWN NHQ
Phone: 254-02-341284/85/86 mob: 0714 [illegible] Fax: fax 254-02-341287

Cash Receipt

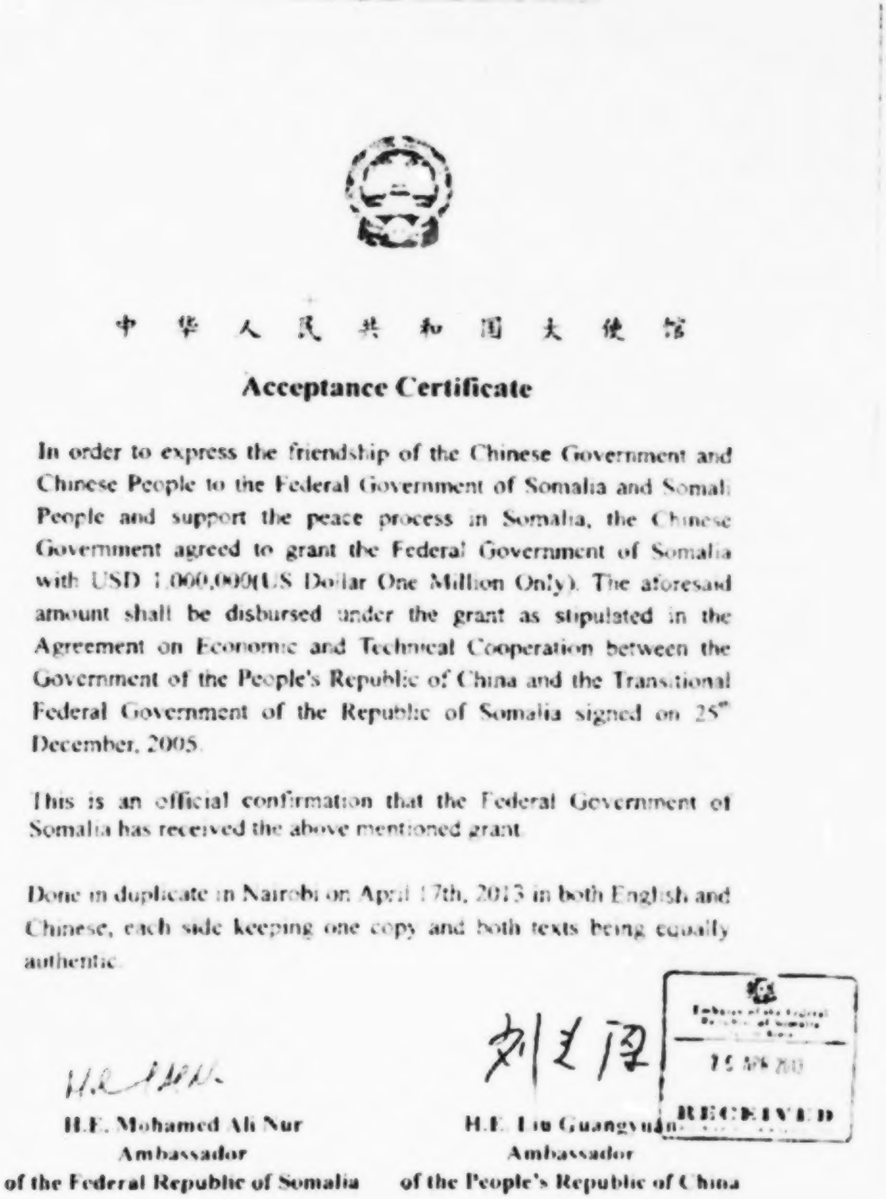
DATE	4/2/2015 12:32:43 PM	HAWAALA NO	NHQ0592275
Sender	**Mohamed Ahmed Anwar**	Purpose	Family Sup
Address	NAIROBI TOWN NHQ, Tel: 254722585936 Mob: 254722585936		
Documents	NA		
Amount	$44,368.00 Comm: $888.00 Total: $45,256.00 **KES: 4,077,419.20 + 81,607.20** **Total KES:4,159,026.40**		

Receiver:	**OSMAN SHEIKH MOHAMED**
Address:	MUQDISHO AIRPORT, Tel: Mob: 252616670434

Customer Signature ____________ Agent

Date:
4/2/2015

Annex 3.2.c: Acceptance certificate of USD 1 million grant to Somalia by Chinese Government



中华人民共和国大使馆

Acceptance Certificate

In order to express the friendship of the Chinese Government and Chinese People to the Federal Government of Somalia and Somali People and support the peace process in Somalia, the Chinese Government agreed to grant the Federal Government of Somalia with USD 1,000,000(US Dollar One Million Only). The aforesaid amount shall be disbursed under the grant as stipulated in the Agreement on Economic and Technical Cooperation between the Government of the People's Republic of China and the Transitional Federal Government of the Republic of Somalia signed on 25th December, 2005.

This is an official confirmation that the Federal Government of Somalia has received the above mentioned grant.

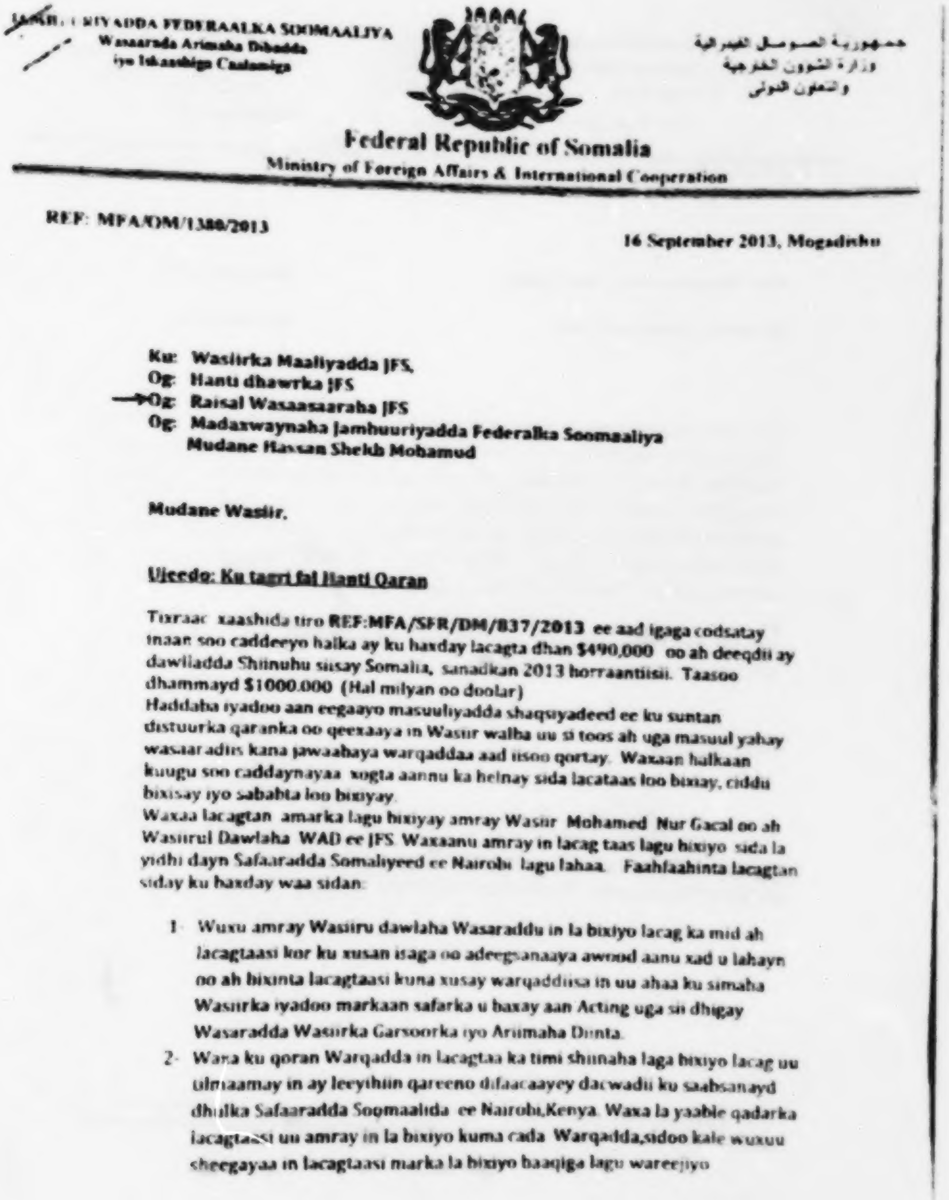
Done in duplicate in Nairobi on April 17th, 2013 in both English and Chinese, each side keeping one copy and both texts being equally authentic.

RECEIVED

H.E. Mohamed Ali Nur
Ambassador
of the Federal Republic of Somalia

H.E. Liu Guangyuan
Ambassador
of the People's Republic of China

Annex 3.2.d: Letter to Minister of Finance from the Minister of Foreign Affairs and International Cooperation



JAMHUURIYADDA FEDERAALKA SOOMAALIYA
Wasaarada Arimaha Dibadda
iyo Iskaashiga Caalamiga

جمهورية الصومال الفيدرالية
وزارة الشؤون الخارجية
والتعاون الدولي

Federal Republic of Somalia
Ministry of Foreign Affairs & International Cooperation

REF: MFA/DM/1380/2013

16 September 2013, Mogadishu

Ku: Wasiirka Maaliyadda JFS,
Og: Hantu dhawrka JFS
→Og: Raisal Wasaasaaraha JFS
Og: Madaxwaynaha Jamhuuriyadda Federalka Soomaaliya
Mudane Hassan Sheikh Mohamud

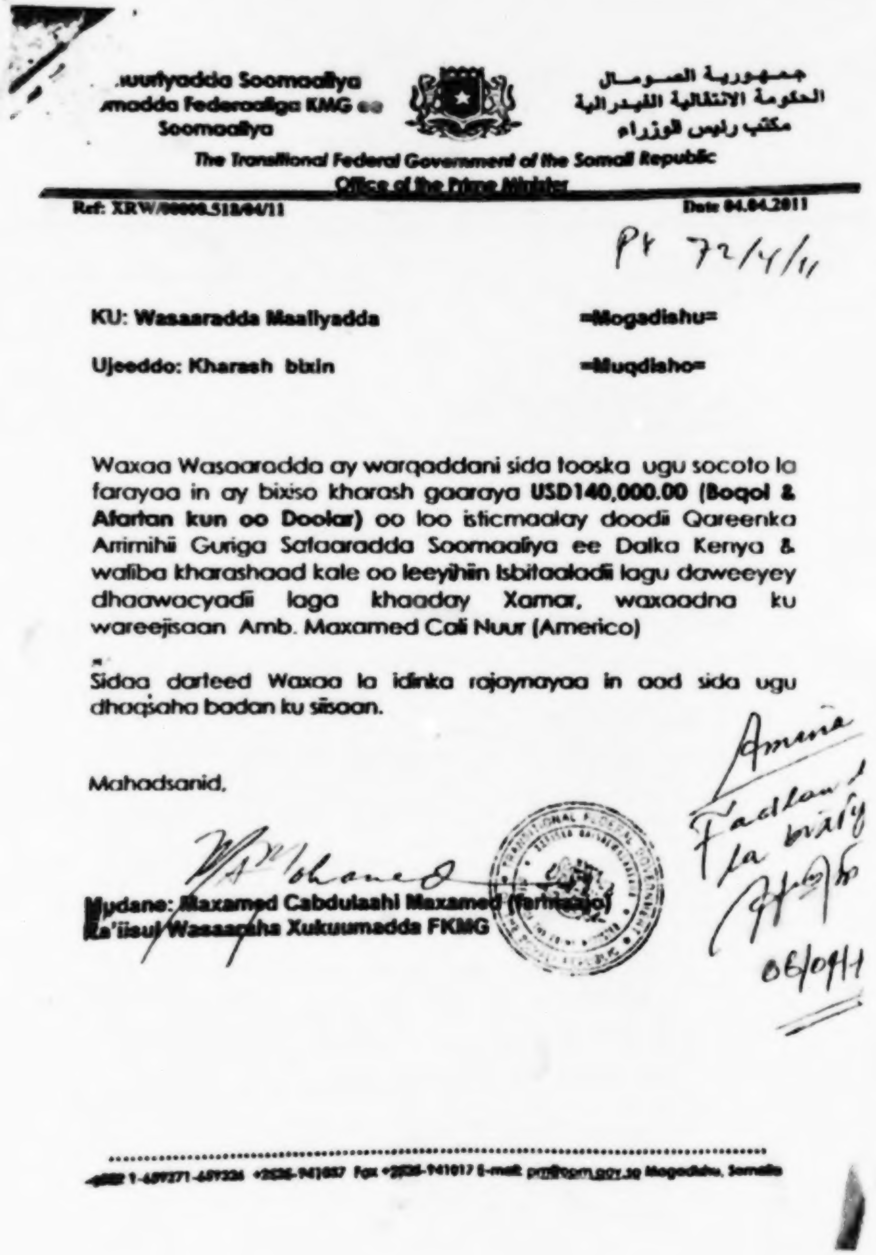
Mudane Wasiir,

Ujeedo: Ku tagri fal Hanti Qaran

Tixraac xaashida tiro **REF:MFA/SFR/DM/837/2013** ee aad igaga codsatay inaan soo caddeeyo halka ay ku baxday lacagta dhan **$490,000** oo ah deeqdii ay dawliadda Shiinuhu siisay Somalia, sanadkan 2013 horraantiisii. Taasoo dhammayd **$1000.000** (Hal milyan oo doolar)
Haddaba iyadoo aan eegaayo masuuliyadda shaqsiyadeed ee ku suntan distuurka qaranka oo qeexaaya in Wasiir walba uu si toos ah uga masuul yahay wasaaradiis kana jawaabaya warqaddaa aad iisoo qortay. Waxaan halkaan kuugu soo caddaynayaa xogta aannu ka helnay sida lacataas loo bixiay, ciddu bixisay iyo sababta loo bixiyay.
Waxaa lacagtan amarka lagu bixiyay amray Wasiir **Mohamed Nur Gacal** oo ah Wasiirul Dawlaha WAD ee JFS. Waxaanu amray in lacag taas lagu bixiyo sida la yidhi dayn Safaaradda Somaliyeed ee Nairobi lagu lahaa. Faahfaahinta lacagtan siday ku baxday waa sidan:

1- Wuxu amray Wasiiru dawlaha Wasaraddu in la bixiyo lacag ka mid ah lacagtaasi kor ku xusan isaga oo adeegsanaaya awood aanu xad u lahayn oo ah bixinta lacagtaasi kuna xusay warqaddiisa in uu ahaa ku simaha Wasiirka iyadoo markaan safarka u baxay aan Acting uga sii dhigay Wasaradda Wasiirka Garsoorka iyo Ariimaha Diinta.
2- Waxa ku qoran Warqadda in lacagtaa ka timi shiinaha laga bixiyo lacag uu ulmaamay in ay leeyihiin qareeno difaacaayey dacwadii ku saabsanayd dhulka Safaaradda Soomaalida ee Nairobi,Kenya. Waxa la yaable qadarka lacagtaasi uu amray in la bixiyo kuma cada Warqadda,sidoo kale wuxuu sheegayaa in lacagtaasi marka la bixiyo baaqiga lagu wareejiyo

Annex 3.2.e: Letter from Prime Minister "Farmaajo" approving the release of USD 140,000 for legal fees concerning the former embassy premises lawsuit in Nairobi



uuriyadda Soomaaliya
madda Federaaliga KMG ee
Soomaaliya

جمهورية الصومال
الحكومة الانتقالية الفيدرالية
مكتب رئيس الوزراء

The Transitional Federal Government of the Somali Republic
Office of the Prime Minister

Ref: XRW/[illegible].518/04/11 **Date 04.04.2011**

P+ 72/4/11

KU: Wasaaradda Maaliyadda **=Mogadishu=**

Ujeeddo: Kharash bixin **=Muqdisho=**

Waxaa Wasaaradda ay warqaddani sida tooska ugu socoto la farayaa in ay bixiso kharash gaaraya **USD140,000.00 (Boqol & Afartan kun oo Doolar)** oo loo isticmaalay doodii Qareenka Arrimihii Guriga Safaaradda Soomaaliya ee Dalka Kenya & waliba kharashaad kale oo leeyihiin Isbitaaladii lagu daweeyey dhaawacyadii laga khaaday Xamar, waxaadna ku wareejisaan Amb. Maxamed Cali Nuur (Americo)

Sidaa darteed Waxaa la idinka rajaynayaa in aad sida ugu dhaqsaha badan ku siisaan.

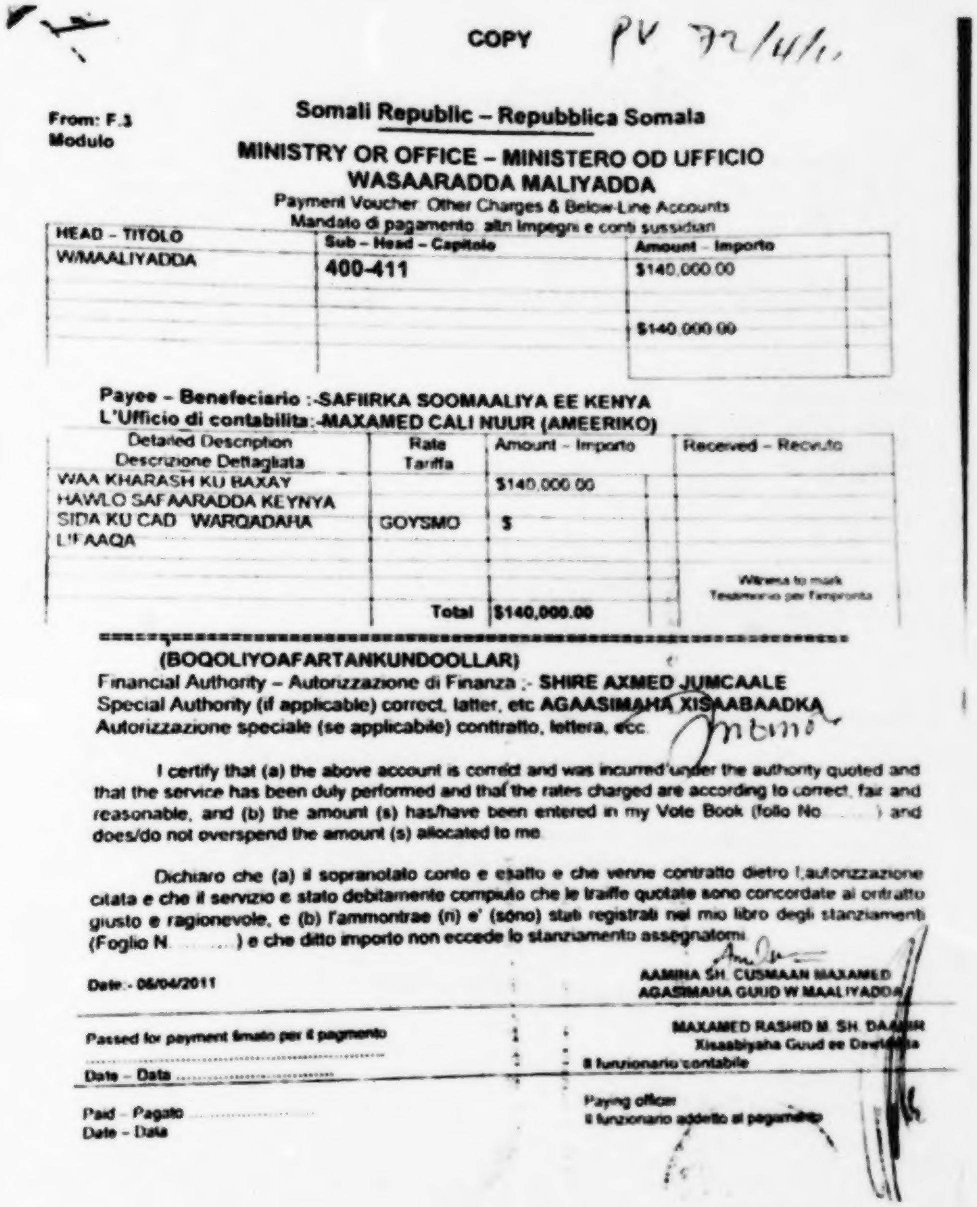
Mahadsanid,

Mudane: Maxamed Cabdulaahi Maxamed (Farmaajo)
Ra'iisul Wasaaraha Xukuumadda FKMG

Amina
Fadlan
la bixiy
06/04/11

+252 1-659271-659326 +2526-941037 Fax +2526-941017 E-mail: pm@opm.gov.so Mogadishu, Somalia

Annex 3.2.f: Receipt showing the transfer of USD 140,000 to Ambassador "Americo" on behalf of the Somali Embassy in Nairobi



COPY PV 72/4/11

From: F.3
Modulo

Somali Republic – Repubblica Somala

MINISTRY OR OFFICE – MINISTERO OD UFFICIO
WASAARADDA MALIYADDA
Payment Voucher: Other Charges & Below-Line Accounts
Mandato di pagamento: altri impegni e conti sussidiari

HEAD – TITOLO	Sub – Head – Capitolo	Amount – Importo
W/MAALIYADDA	400-411	$140,000.00
		$140,000.00

Payee – Benefeciario :-SAFIIRKA SOOMAALIYA EE KENYA
L'Ufficio di contabilita:-MAXAMED CALI NUUR (AMEERIKO)

Detailed Description Descrizione Dettagliata	Rate Tariffa	Amount – Importo	Received – Recvuto
WAA KHARASH KU BAXAY HAWLO SAFAARADDA KEYNYA SIDA KU CAD WARQADAHA LIFAAQA	GOYSMO	$140,000.00 $	
			Witness to mark Testimonio per l'impronta
	Total	**$140,000.00**	

(BOQOLIYOAFARTANKUNDOOLLAR)

Financial Authority – Autorizzazione di Finanza ;- **SHIRE AXMED JUMCAALE**
Special Authority (if applicable) correct, latter, etc **AGAASIMAHA XISAABAADKA**
Autorizzazione speciale (se applicabile) contratto, lettera, ecc.

I certify that (a) the above account is correct and was incurred under the authority quoted and that the service has been duly performed and that the rates charged are according to correct, fair and reasonable, and (b) the amount (s) has/have been entered in my Vote Book (folio No ......) and does/do not overspend the amount (s) allocated to me.

Dichiaro che (a) il sopranotato conto e esatto e che venne contratto dietro l,autorizzazione citata e che il servizio e stato debitamente compiuto che le traiffe quotate sono concordate al ontratto giusto e ragionevole, e (b) l'ammontrae (n) e' (sono) stati registrati nel mio libro degli stanziamenti (Foglio N ....) e che ditto importo non eccede lo stanziamento assegnatomi.

Date:- 06/04/2011

AAMINA SH. CUSMAAN MAXAMED
AGASIMAHA GUUD W MAALIYADDA

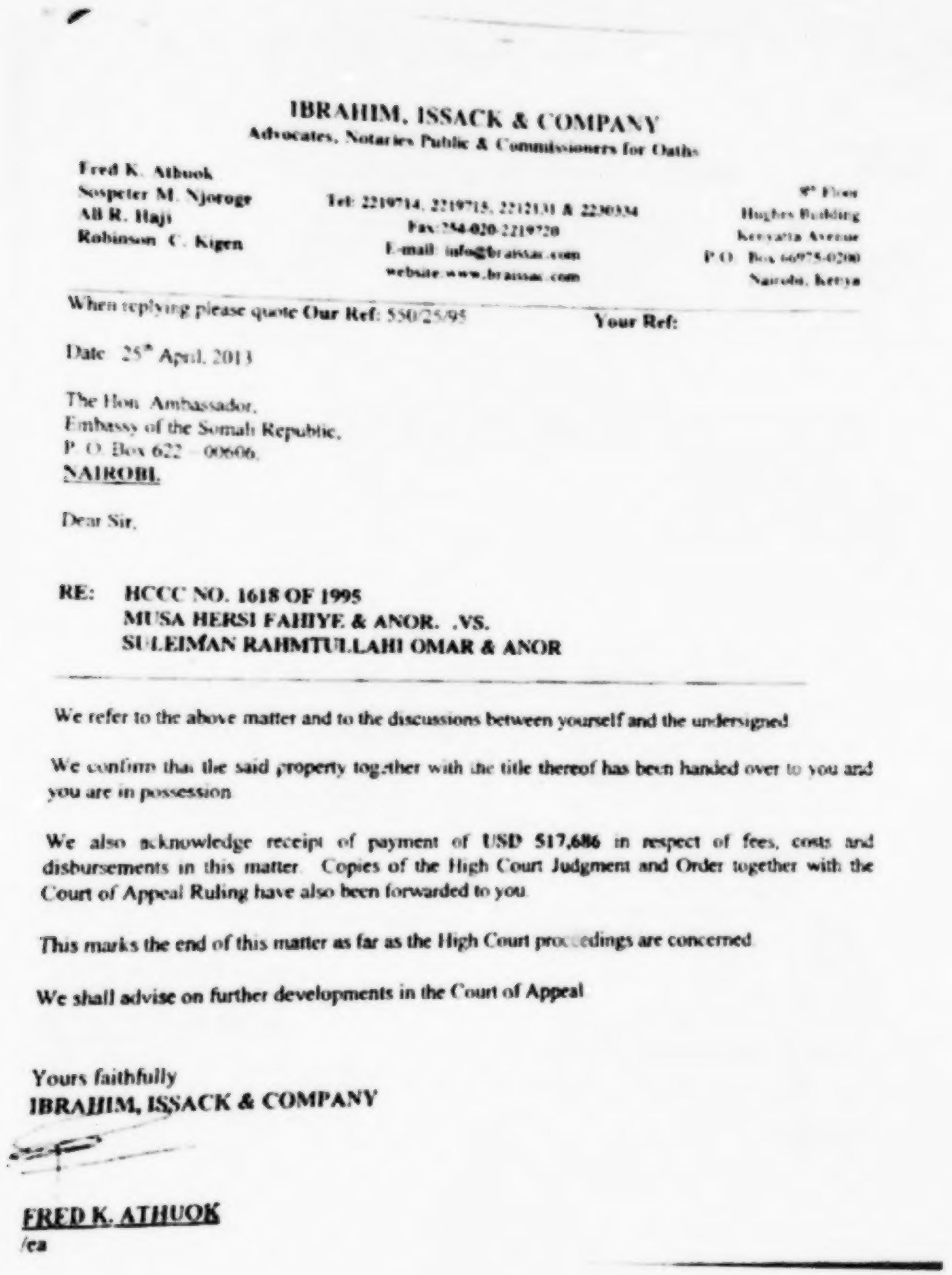
Passed for payment firmato per il pagmento
....
Date – Data ....

MAXAMED RASHID M. SH. DAAHIR
Xisaabiyaha Guud ee Dawladda
Il funzionario contabile

Paid – Pagato ....
Date – Data

Paying officer
Il funzionario addetto al pagamento

Annex 3.2.g: Letter of acknowledgement of payment from Ibrahim, Issack & Company



IBRAHIM, ISSACK & COMPANY
Advocates, Notaries Public & Commissioners for Oaths

Fred K. Athuok
Sospeter M. Njoroge
Ali R. Haji
Robinson C. Kigen

Tel: 2219714, 2219715, 2212131 & 2230334
Fax: 254-020-2219720
E-mail: info@braissac.com
website: www.braissac.com

9th Floor
Hughes Building
Kenyatta Avenue
P.O. Box 66975-0200
Nairobi, Kenya

When replying please quote **Our Ref:** 550/25/95 **Your Ref:**

Date 25th April, 2013

The Hon. Ambassador,
Embassy of the Somali Republic,
P. O. Box 622 – 00606,
NAIROBI.

Dear Sir,

RE: HCCC NO. 1618 OF 1995
MUSA HERSI FAHIYE & ANOR. .VS.
SULEIMAN RAHMTULLAHI OMAR & ANOR

We refer to the above matter and to the discussions between yourself and the undersigned.

We confirm that the said property together with the title thereof has been handed over to you and you are in possession.

We also acknowledge receipt of payment of **USD 517,686** in respect of fees, costs and disbursements in this matter. Copies of the High Court Judgment and Order together with the Court of Appeal Ruling have also been forwarded to you.

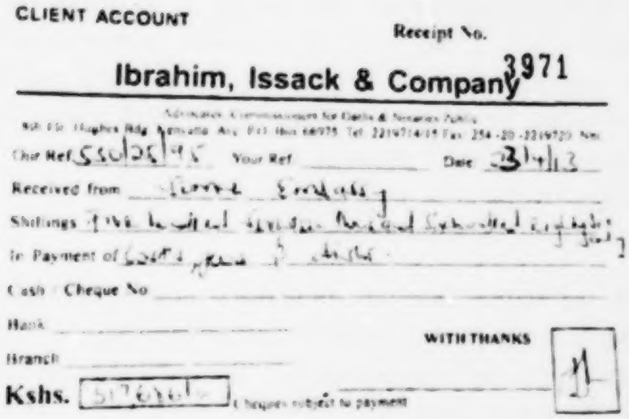
This marks the end of this matter as far as the High Court proceedings are concerned.

We shall advise on further developments in the Court of Appeal.

Yours faithfully
IBRAHIM, ISSACK & COMPANY

FRED K. ATHUOK
/ea

Annex 3.2.h: Receipt from Ibrahim, Issack & Company for KES 517,686



CLIENT ACCOUNT

Receipt No. 3971

Ibrahim, Issack & Company

Advocates, Commissioners for Oaths & Notaries Public

Our Ref 550/25/45 Your Ref ______ Date 3/4/13

Received from Eritrea Embassy

Shillings Five hundred seventeen thousand six hundred eighty six only

In Payment of [illegible]

Cash / Cheque No ______

Bank ______

Branch ______

WITH THANKS

Kshs. 517,686/- Cheques subject to payment

Annex 3.3: Misappropriation of funds for Mogadishu port rehabilitation

Background to the Mogadishu port rehabilitation project

18. In 1993, UNITAF peacekeeping troops took control of the operations of Mogadishu port on behalf of the Government of Somalia, in order to ensure humanitarian access to the country. Operation of the port was subsequently handed over to a joint civilian board composed of representatives from UNOSOM II, UNDP, UNCTAD, and WFP. Revenues gathered from port tariffs were in turn managed in trust by UNDP Somalia and WFP; in July 1997, the entirety of the funds, USD 1,003,930, was transferred into a trust fund managed solely by UNDP Somalia. The fund collected interest, and by January 2008 amounted to USD 1,355,066.

19. In September 2008, the Mogadishu Port Authorities manager of the then-Transitional Federal Government (TFG), Abdi Gino, requested that the funds be repatriated to the TFG.[13] UNDP Somalia ultimately declined to do so, on the grounds that the TFG was not yet an internationally recognised Government.[14] The funds therefore remained in the UNDP Somalia trust fund.

20. On UNDP Somalia's website,[15] this trust fund is formulated as a "Mogadishu Port Rehabilitation" project that ran from 1 January 2005 until 31 December 2014 (see annex 3.3.a). However, while UNDP Somalia attempted for a number of years to use the funds to purchase a fixed crane for Mogadishu port, ultimately the money was never committed to any development programme.

21. On 17 March 2014, the then-Minister of Ports and Marine Transport, Yusuf Moallim Amin "Baadiyow", sent a letter to the UNDP Somalia Country Director, George Conway (available in annex 3.3.b). The letter demanded the immediate return of the Mogadishu port funds "to its rightful owner, the Government of Somalia", which Amin erroneously alleged had been "acquired without authorization and unconditionally from the Mogadishu Port by WFP and transferred to UNDP".

22. Conway held three meetings with Amin between April and July 2014, at which occasions Amin was "very persistent" in his demands for the release of the funds.[16] Recognising that the funds belonged to the FGS and that UNDP was "duty-bound" to return them, Conway nonetheless insisted that the funds be routed through the FGS' Treasury Single Account (TSA)[17] and ultimately be put

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[13] Minutes from a meeting held in the UNDP Somalia Deputy Country Director's office in Nairobi, 4 September 2008, on file with the Monitoring Group.

[14] SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

[15] Available from http://open.undp.org/#project/00041593, accessed 28 August 2015.

[16] The meetings took place on 2 April, 11 May, and 13 July 2014 at the United Nations Common Compound (UNCC) in Mogadishu. SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

[17] This process would be in compliance with a February 2014 Ministry of Finance directive requiring all Government revenue to be deposited in the TSA.

towards fulfilling the objectives laid out by the Ministry's 2014 Work Plan, conditions to which Amin agreed.[18] By this point, the trust fund had grown to over USD 1.8 million with accrued interest.

23. Conway subsequently sought advice from a public financial management advisor working with the FGS, who in a 14 July 2014 email, seen by the Monitoring Group, concurred that the funds should be deposited in "the government treasury rather than the Mogadishu port account", in order to avoid their being "spent on anything else".[19] After receiving approval from UNDP senior management, Conway issued a letter on 4 August 2014 (available in annex 3.3.c), agreeing to release the port funds to the FGS. The letter restated the previously agreed conditions, namely that the funds would be transferred to the TSA and subsequently be put towards the Ministry's 2014 Work Plan, "through Government public financial management systems and budget execution processes".

24. In a 5 August 2014 email (reproduced in annex 3.3.d), Amin supplied Conway with bank details for the transfer; contrary to their previous understanding, however, the email directed UNDP Somalia to route the funds into a newly created Mogadishu International Port account at the Central Bank of Somalia (CBS), #1035, rather than the TSA.

25. On 20 August 2014, a transfer of USD 859,616.10 from UNDP Somalia's office in Nairobi arrived in CBS account #1035. On 11 September 2014, a virtually identical sum of USD 859,616.09 from UNDP Somalia arrived in the account. After deductions of banking fees, the net amount transferred from UNDP Somalia to the account totalled USD 1,693,443.71.[20]

Misappropriation of funds by former minister Yusuf Moallim Amin "Baadiyow"

26. On 27 August 2014, exactly a week following the first UNDP deposit, Minister Amin sent a letter addressed to the Accountant General, Central Bank, Ministry of Finance, and other parties (see annex 3.3.e). The letter contained instructions specifying that only the undersigned – namely, Amin himself, as well as the Director General of the Ministry, Abdullahi Ali Nur – would be authorised to withdraw funds from account #1035. The Central Bank and the Accountant General in turn approved the request.

27. On 13 September 2014, a withdrawal of USD 600,000.00 was made from the account. On 20 September 2014 an additional USD 600,000.00 was withdrawn, and a final withdrawal of USD 493,400.00 took place on 24 September. Taken together, the three withdrawals totalled

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[18] SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

[19] Email on file with the Monitoring Group.

[20] UNDP Somalia later transferred an additional USD 86,932.00 on 9 November 2014 to account #1035 in order to compensate for a previous accounting error. This amount remains in the account as of 25 August 2015. With this final deposit, the aggregate amount after banking fees transferred by UNDP Somalia into account #1035 totalled USD 1,806,164.19.

USD 1,693,400.00 – USD 43.71 short of the aggregate amount transferred up to that point by UNDP Somalia.

28. According to the Central Bank Governor, Bashir Isse, all three withdrawals were made via cheques issued to the Ministry's accountant, Ali Abdirahman, by the joint signature of Minister Amin and Director General Nur.[21] Therefore, while Ali Abdirahman's name appears beside withdrawal entries in CBS records, the withdrawals themselves were authorised by Amin and Nur. Given the absence of prior or subsequent transactions, Amin appears to have created this account for no other purpose than to receive the UNDP funds, away from the knowledge and oversight of the FGS Ministry of Finance. The Central Bank statement for account #1035 is available in annex 3.3.f.

29. In April 2015, a former senior official with the Ministry of Ports and Marine Transport approached the Monitoring Group claiming that Amin, with the cooperation of Nur, had misappropriated almost USD 1.7 million of port rehabilitation funds.[22] The official told the Group that he had initially questioned Amin about how the money had been used, but backed off when he realised that the former had withdrawn it for his own purposes.[23] A Somalia anti-corruption organisation corroborated this account of misappropriation by Amin and Nur, citing testimony they obtained from another former senior Ministry official.[24] The FGS Auditor General, Nur Farah, also informed the Monitoring Group that investigating Amin and Nur's alleged misappropriation of the port funds was on his "to do list", and he requested the Group's assistance in furthering his inquiry.[25]

Missing office building

30. The Monitoring Group received information that the port funds had been earmarked within the Ministry for the construction of an office building off Corso Somalia street in Mogadishu.[26] On 30 August 2015 the Group obtained a photograph of the building site, which depicts a mostly empty lot containing a solitary kiosk. There is no evidence that development has begun on the site, despite the funds having been withdrawn from the CBS almost one year prior. This photograph, as well as a satellite image showing the location of the building site, is available in annex 3.3.g.

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[21] Email from Bashir Isse to the SEMG, 25 August 2015.

[22] Interview in Nairobi between the SEMG and a former senior official at the Ministry of Ports and Marine Transport, 14 April 2015.

[23] Ibid.

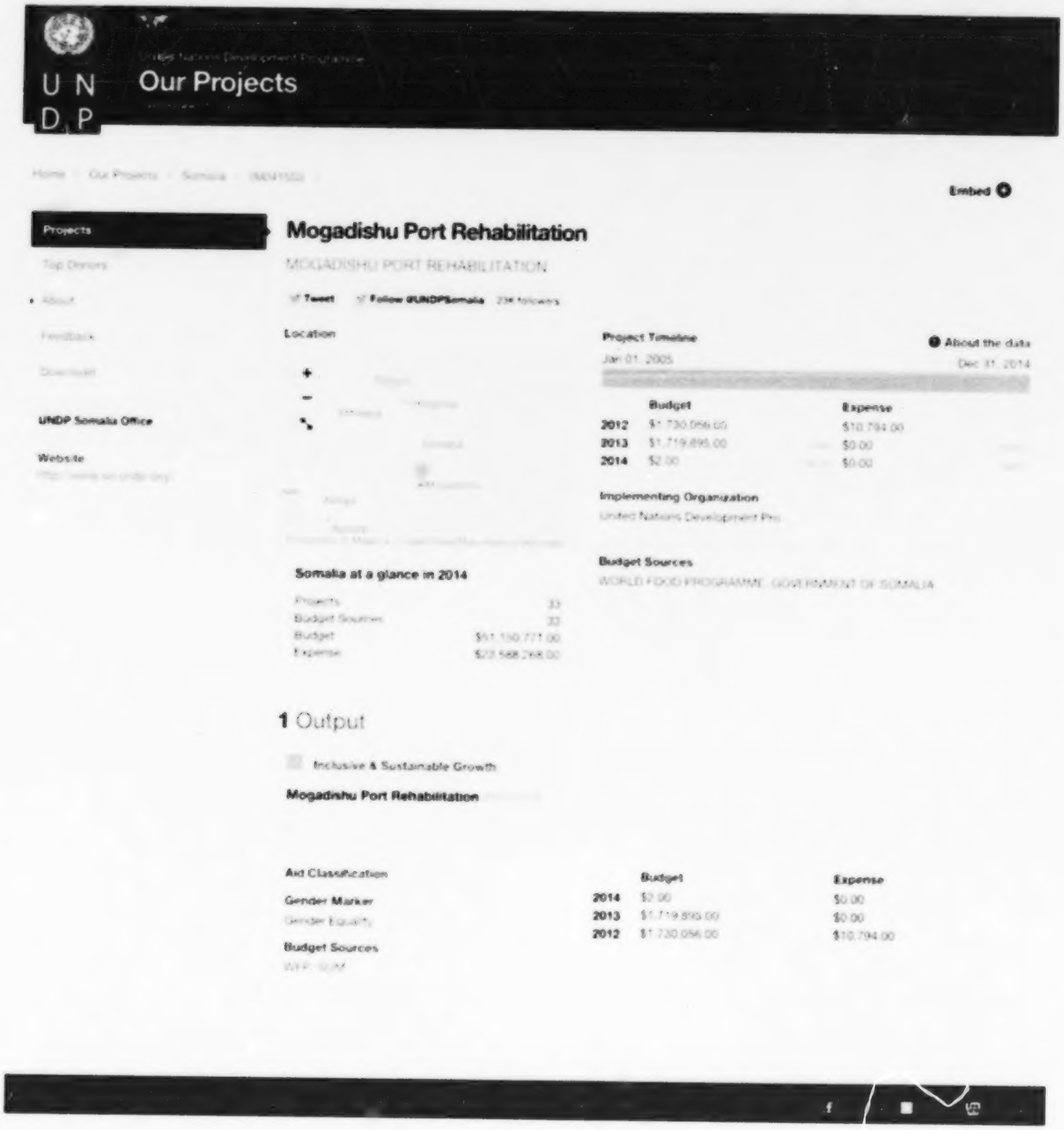
[24] Information provided to the SEMG on 8 June 2015 by a Somalia anti-corruption group.

[25] Email from Nur Farah to the SEMG, 27 August 2015.

[26] Information provided to the SEMG on 30 August 2015 by the Somalia anti-corruption group, again citing information received from a former senior official within the Ministry of Ports and Marine Transport.

31. The Monitoring Group contacted Yusuf Moallim Amin multiple times to request an explanation for the missing funds, but received no response. As of 6 September 2015 the Group had been unable to contact the former Director General, Abdullahi Ali Nur.

Annex 3.3.a: UNDP Somalia web page displaying the funds being held in trust for Mogadishu port rehabilitation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Feedback
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Embed
Tweet
Follow @UNDPSomalia
Location
About the data

UNDP Somalia Office

Website

Mogadishu Port Rehabilitation

MOGADISHU PORT REHABILITATION

Project Timeline

Jan 01, 2005 — Dec 31, 2014

	Budget	Expense
2012	$1,730,056.00	$10,794.00
2013	$1,719,895.00	$0.00
2014	$2.00	$0.00

Implementing Organization

United Nations Development Pro

Budget Sources

WORLD FOOD PROGRAMME, GOVERNMENT OF SOMALIA

Somalia at a glance in 2014

Projects	33
Budget Sources	33
Budget	$51,150,771.00
Expense	$23,568,268.00

1 Output

Inclusive & Sustainable Growth

Mogadishu Port Rehabilitation

Aid Classification

Gender Marker

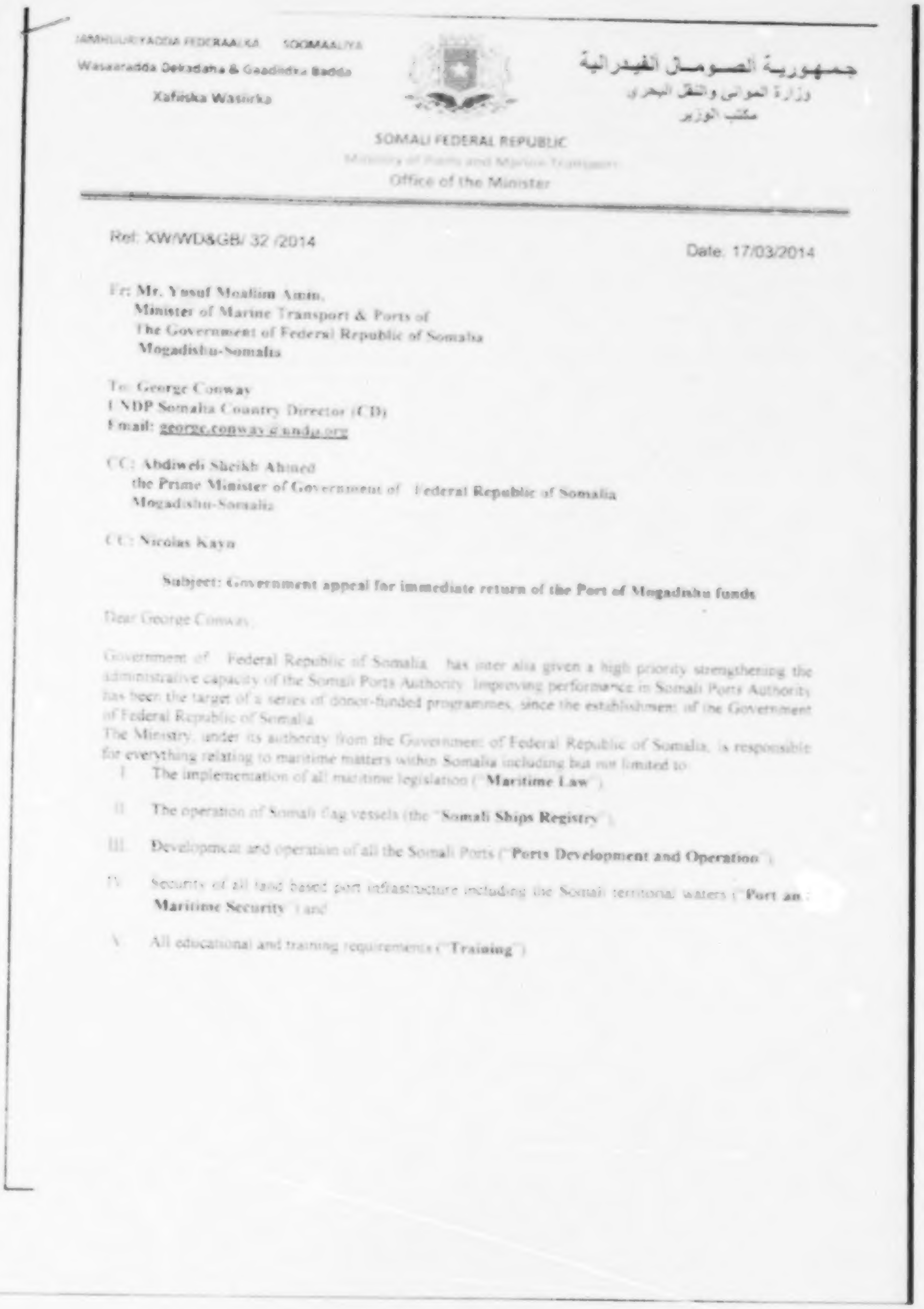
Gender Equality

Budget Sources

WFP, SGM

	Budget	Expense
2014	$2.00	$0.00
2013	$1,719,895.00	$0.00
2012	$1,730,056.00	$10,794.00

Annex 3.3.b: 17 March 2014 letter from Yusuf Moallim Amin "Baadiyow" to UNDP Somalia Country Director George Conway



JAMHUURIYADDA FEDERAALKA SOOMAALIYA
Wasaaradda Dekadaha & Gaadiidka Badda
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة الموانى والنقل البحري
مكتب الوزير

SOMALI FEDERAL REPUBLIC
Ministry of Ports and Marine Transport
Office of the Minister

Ref: XW/WD&GB/ 32 /2014

Date: 17/03/2014

Fr: **Mr. Yusuf Moallim Amin,**
Minister of Marine Transport & Ports of
The Government of Federal Republic of Somalia
Mogadishu-Somalia

To: **George Conway**
UNDP Somalia Country Director (CD)
Email: george.conway@undp.org

CC: **Abdiweli Sheikh Ahmed**
the Prime Minister of Government of Federal Republic of Somalia
Mogadishu-Somalia

CC: **Nicolas Kayn**

Subject: Government appeal for immediate return of the Port of Mogadishu funds

Dear George Conway,

Government of Federal Republic of Somalia has inter alia given a high priority strengthening the administrative capacity of the Somali Ports Authority. Improving performance in Somali Ports Authority has been the target of a series of donor-funded programmes, since the establishment of the Government of Federal Republic of Somalia.
The Ministry, under its authority from the Government of Federal Republic of Somalia, is responsible for everything relating to maritime matters within Somalia including but not limited to:

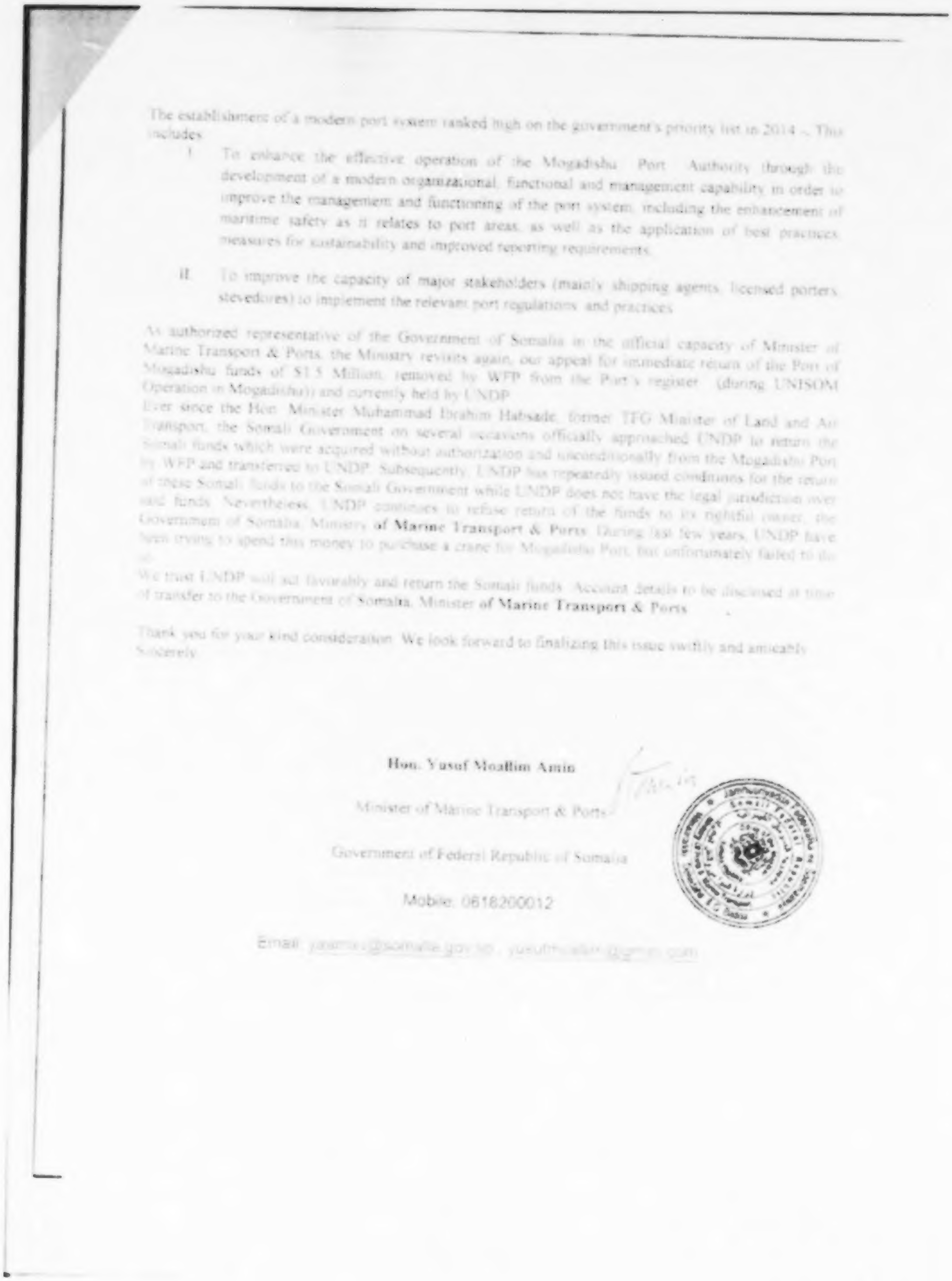
I. The implementation of all maritime legislation ("**Maritime Law**")

II. The operation of Somali flag vessels (the "**Somali Ships Registry**")

III. Development and operation of all the Somali Ports ("**Ports Development and Operation**")

IV. Security of all land based port infrastructure including the Somali territorial waters ("**Port and Maritime Security**") and

V. All educational and training requirements ("**Training**")



The establishment of a modern port system ranked high on the government's priority list in 2014 – This includes

I. To enhance the effective operation of the Mogadishu Port Authority through the development of a modern organizational, functional and management capability in order to improve the management and functioning of the port system, including the enhancement of maritime safety as it relates to port areas, as well as the application of best practices measures for sustainability and improved reporting requirements.

II. To improve the capacity of major stakeholders (mainly shipping agents, licensed porters, stevedores) to implement the relevant port regulations and practices

As authorized representative of the Government of Somalia in the official capacity of Minister of Marine Transport & Ports, the Ministry revisits again, our appeal for immediate return of the Port of Mogadishu funds of $1.5 Million, removed by WFP from the Port's register (during UNISOM Operation in Mogadishu)) and currently held by UNDP.
Ever since the Hon. Minister Muhammad Ibrahim Habsade, former TFG Minister of Land and Air Transport, the Somali Government on several occasions officially approached UNDP to return the Somali funds which were acquired without authorization and unconditionally from the Mogadishu Port by WFP and transferred to UNDP. Subsequently, UNDP has repeatedly issued conditions for the return of these Somali funds to the Somali Government while UNDP does not have the legal jurisdiction over said funds. Nevertheless, UNDP continues to refuse return of the funds to its rightful owner, the Government of Somalia, Ministry **of Marine Transport & Ports**. During last few years, UNDP have been trying to spend this money to purchase a crane for Mogadishu Port, but unfortunately failed to do so.

We trust UNDP will act favorably and return the Somali funds. Account details to be disclosed at time of transfer to the Government of Somalia, Minister **of Marine Transport & Ports**.

Thank you for your kind consideration. We look forward to finalizing this issue swiftly and amicably.
Sincerely

Hon. Yusuf Moallim Amin

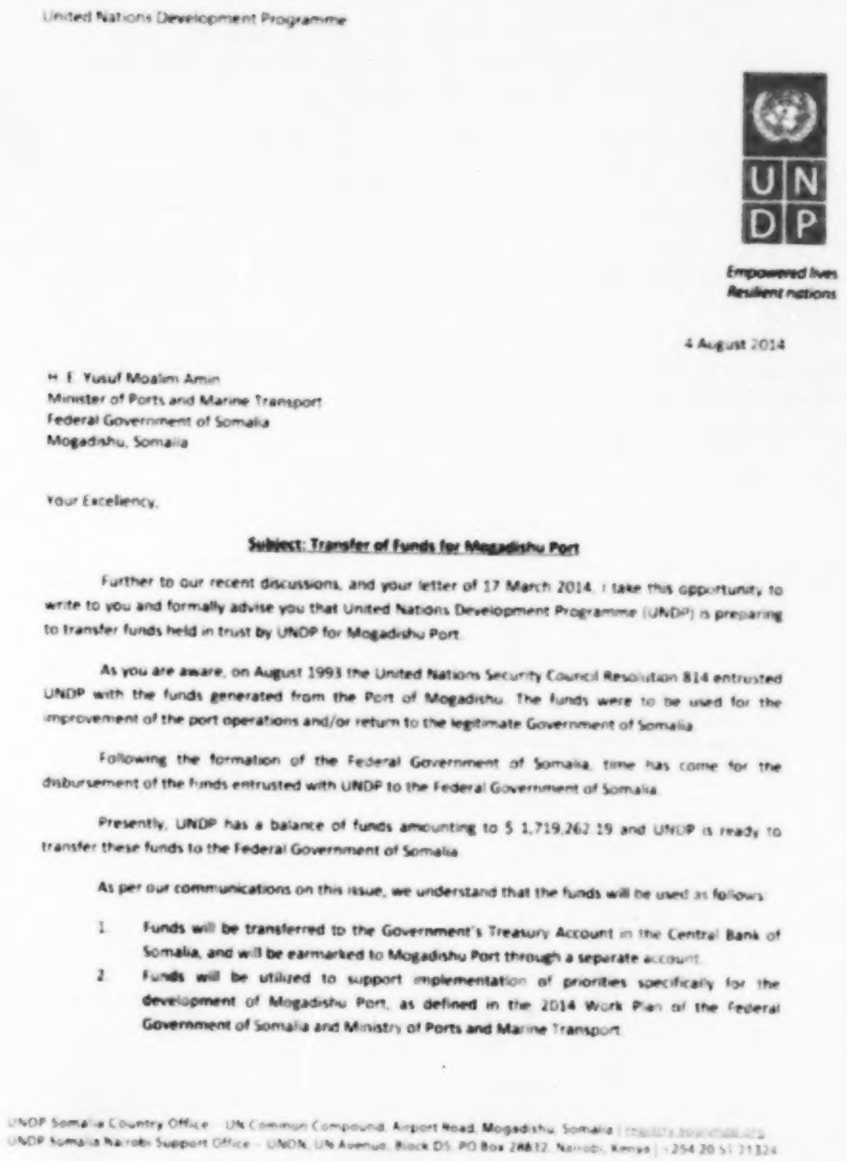
Minister of Marine Transport & Ports

Government of Federal Republic of Somalia

Mobile: 0618200012

Email: [illegible] , [illegible]

Annex 3.3.c: 4 August 2014 letter from UNDP Country Director George Conway to Yusuf Moallim Amin "Baadiyow" agreeing to transfer the Mogadishu port funds



United Nations Development Programme

Empowered lives
Resilient nations

4 August 2014

H. E. Yusuf Moalim Amin
Minister of Ports and Marine Transport
Federal Government of Somalia
Mogadishu, Somalia

Your Excellency,

Subject: Transfer of Funds for Mogadishu Port

Further to our recent discussions, and your letter of 17 March 2014, I take this opportunity to write to you and formally advise you that United Nations Development Programme (UNDP) is preparing to transfer funds held in trust by UNDP for Mogadishu Port.

As you are aware, on August 1993 the United Nations Security Council Resolution 814 entrusted UNDP with the funds generated from the Port of Mogadishu. The funds were to be used for the improvement of the port operations and/or return to the legitimate Government of Somalia.

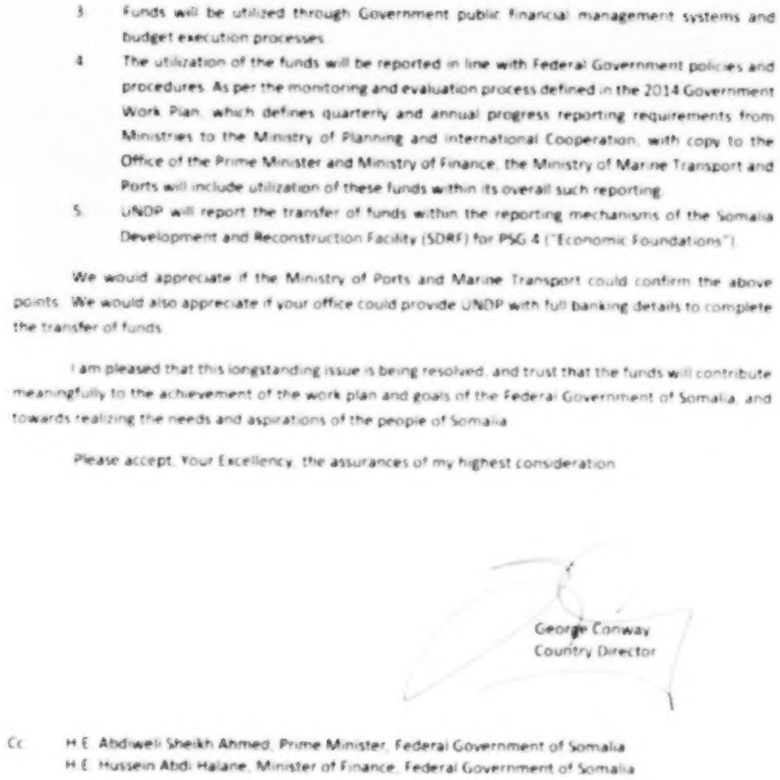
Following the formation of the Federal Government of Somalia, time has come for the disbursement of the funds entrusted with UNDP to the Federal Government of Somalia.

Presently, UNDP has a balance of funds amounting to $ 1,719,262.19 and UNDP is ready to transfer these funds to the Federal Government of Somalia.

As per our communications on this issue, we understand that the funds will be used as follows:

1. Funds will be transferred to the Government's Treasury Account in the Central Bank of Somalia, and will be earmarked to Mogadishu Port through a separate account.
2. Funds will be utilized to support implementation of priorities specifically for the development of Mogadishu Port, as defined in the 2014 Work Plan of the Federal Government of Somalia and Ministry of Ports and Marine Transport.

UNDP Somalia Country Office – UN Common Compound, Airport Road, Mogadishu, Somalia |
UNDP Somalia Nairobi Support Office – UNON, UN Avenue, Block D5, PO Box 28832, Nairobi, Kenya | +254 20 51 21324



3. Funds will be utilized through Government public financial management systems and budget execution processes.
4. The utilization of the funds will be reported in line with Federal Government policies and procedures. As per the monitoring and evaluation process defined in the 2014 Government Work Plan, which defines quarterly and annual progress reporting requirements from Ministries to the Ministry of Planning and International Cooperation, with copy to the Office of the Prime Minister and Ministry of Finance, the Ministry of Marine Transport and Ports will include utilization of these funds within its overall such reporting.
5. UNDP will report the transfer of funds within the reporting mechanisms of the Somalia Development and Reconstruction Facility (SDRF) for PSG 4 ("Economic Foundations").

We would appreciate if the Ministry of Ports and Marine Transport could confirm the above points. We would also appreciate if your office could provide UNDP with full banking details to complete the transfer of funds.

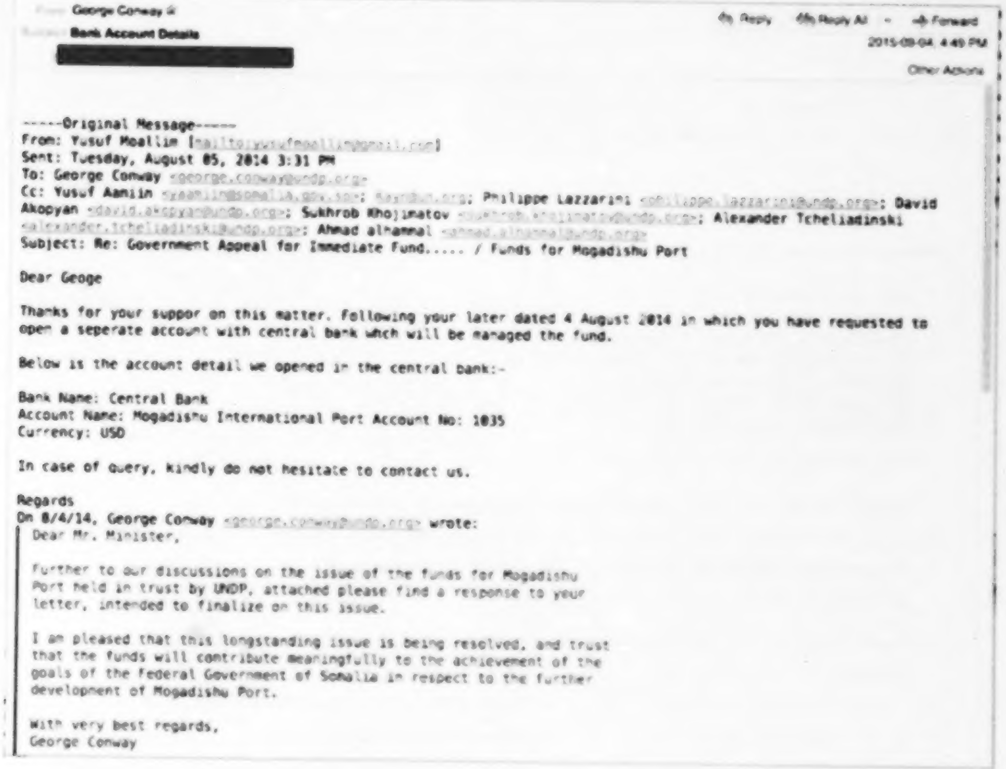
I am pleased that this longstanding issue is being resolved, and trust that the funds will contribute meaningfully to the achievement of the work plan and goals of the Federal Government of Somalia, and towards realizing the needs and aspirations of the people of Somalia.

Please accept, Your Excellency, the assurances of my highest consideration.

George Conway
Country Director

Cc H.E. Abdiweli Sheikh Ahmed, Prime Minister, Federal Government of Somalia
H.E. Hussein Abdi Halane, Minister of Finance, Federal Government of Somalia

Annex 3.3.d: Email from Yusuf Moallim Amin "Baadiyow" supplying bank details to UNDP Somalia Country Director George Conway



From: George Conway
Subject: Bank Account Details
[redacted]
2015-09-04, 4:49 PM

-----Original Message-----
From: Yusuf Moallim [mailto:yusufmoallim@gmail.com]
Sent: Tuesday, August 05, 2014 3:31 PM
To: George Conway <george.conway@undp.org>
Cc: Yusuf Aamiin <yaamiin@somalia.gov.so>; [illegible]@un.org; Philippe Lazzarini <philippe.lazzarini@undp.org>; David Akopyan <david.akopyan@undp.org>; Sukhrob Khojimatov <sukhrob.khojimatov@undp.org>; Alexander Tcheliadinski <alexander.tcheliadinski@undp.org>; Ahmad alhammal <ahmad.alhammal@undp.org>
Subject: Re: Government Appeal for Immediate Fund..... / Funds for Mogadishu Port

Dear Geoge

Thanks for your suppor on this matter. Following your later dated 4 August 2014 in which you have requested to open a seperate account with central bank whch will be managed the fund.

Below is the account detail we opened in the central bank:-

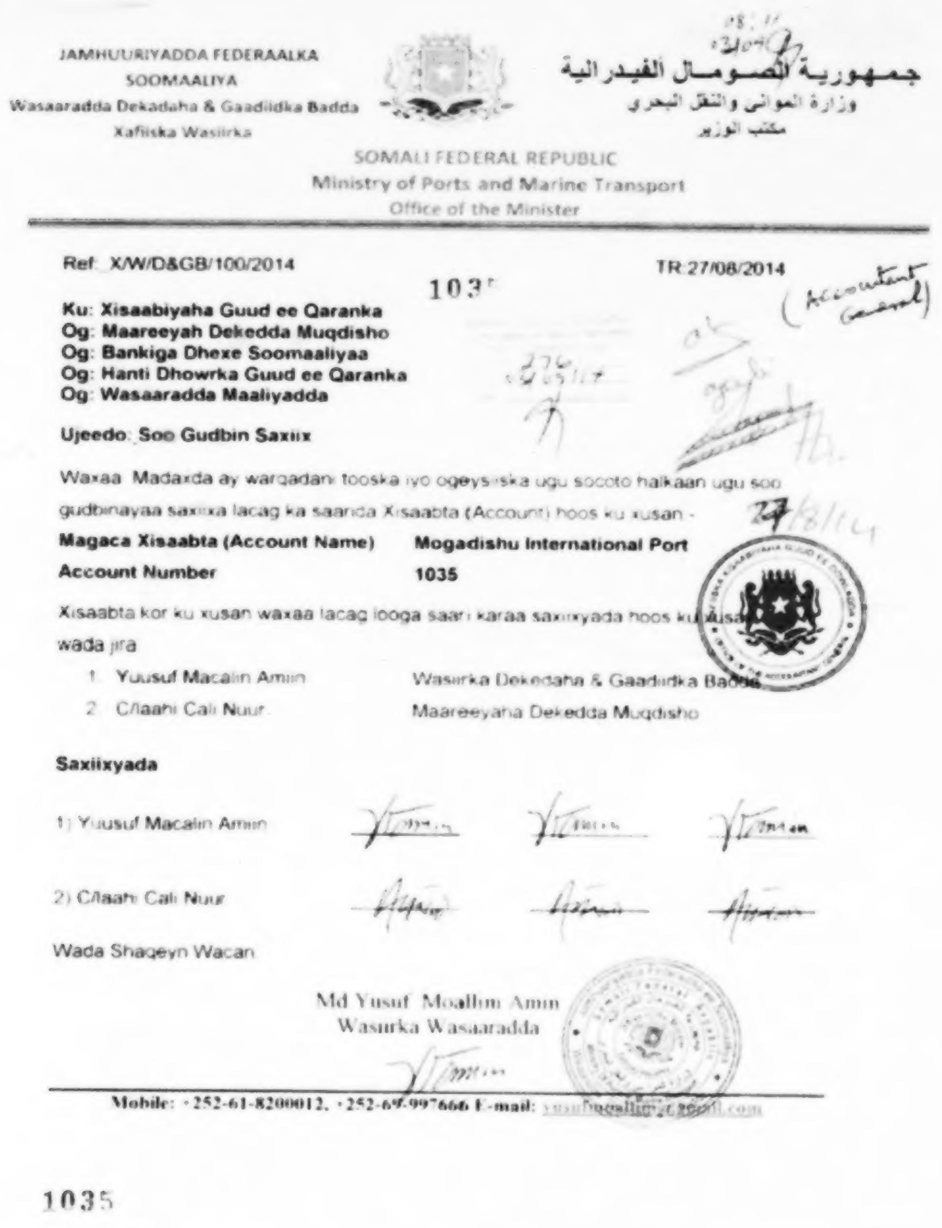
Bank Name: Central Bank
Account Name: Mogadishu International Port Account No: 1035
Currency: USD

In case of query, kindly do not hesitate to contact us.

Regards
On 8/4/14, George Conway <george.conway@undp.org> wrote:

> Dear Mr. Minister,
>
> Further to our discussions on the issue of the funds for Mogadishu Port held in trust by UNDP, attached please find a response to your letter, intended to finalize on this issue.
>
> I am pleased that this longstanding issue is being resolved, and trust that the funds will contribute meaningfully to the achievement of the goals of the Federal Government of Somalia in respect to the further development of Mogadishu Port.
>
> With very best regards,
> George Conway

Annex 3.3.e: Letter from then-Minister of Ports and Marine Transport, Yusuf Moallim Amin "Baadiyow" authorising himself and Director General Abdullahi Ali Nur to withdraw funds from CBS account #1035



JAMHUURIYADDA FEDERAALKA
SOOMAALIYA
Wasaaradda Dekadaha & Gaadiidka Badda
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة الموانى والنقل البحري
مكتب الوزير

SOMALI FEDERAL REPUBLIC
Ministry of Ports and Marine Transport
Office of the Minister

Ref: X/W/D&GB/100/2014

TR:27/08/2014

(Accountant General)

1035

Ku: Xisaabiyaha Guud ee Qaranka
Og: Maareeyah Dekedda Muqdisho
Og: Bankiga Dhexe Soomaaliyaa
Og: Hanti Dhowrka Guud ee Qaranka
Og: Wasaaradda Maaliyadda

ok

Ujeedo: Soo Gudbin Saxiix

Waxaa Madaxda ay warqadani tooska iyo ogeysiiska ugu socoto halkaan ugu soo gudbinayaa saxiixa lacag ka saarida Xisaabta (Account) hoos ku xusan -

27/8/14

Magaca Xisaabta (Account Name)	**Mogadishu International Port**
Account Number	**1035**

Xisaabta kor ku xusan waxaa lacag looga saari karaa saxiixyada hoos ku xusan oo wada jira

1. Yuusuf Macalin Amiin — Wasiirka Dekedaha & Gaadiidka Badda
2. C/laahi Cali Nuur — Maareeyaha Dekedda Muqdisho

Saxiixyada

1) Yuusuf Macalin Amiin

2) C/laahi Cali Nuur

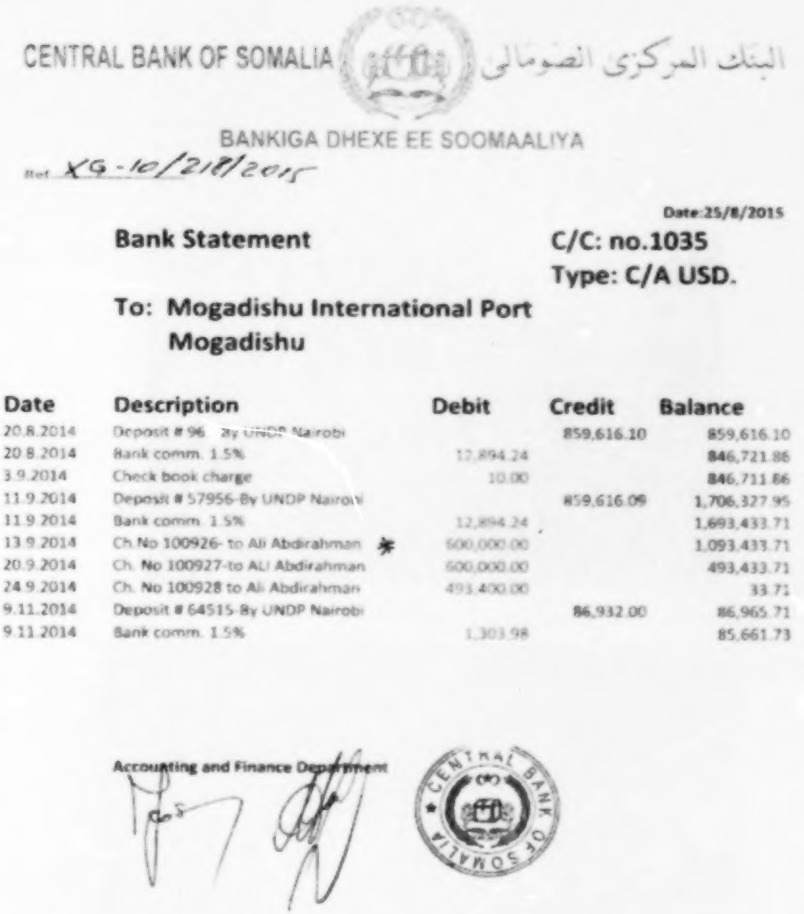
Wada Shaqeyn Wacan

Md Yusuf Moallim Amin
Wasiirka Wasaaradda

Mobile: +252-61-8200012, +252-69-997666 E-mail: yusufmoallim@gmail.com

1035

Annex 3.3.f: Central Bank of Somalia statement for Mogadishu International Port account set up by Yusuf Moallim Amin "Baadiyow" (#1035)



CENTRAL BANK OF SOMALIA البنك المركزي الصومالي

BANKIGA DHEXE EE SOOMAALIYA

Ref. XG-10/218/2015

Date:25/8/2015

Bank Statement

C/C: no.1035

Type: C/A USD.

To: Mogadishu International Port
Mogadishu

Date	Description	Debit	Credit	Balance
20.8.2014	Deposit # 96 By UNDP Nairobi		859,616.10	859,616.10
20.8.2014	Bank comm. 1.5%	12,894.24		846,721.86
3.9.2014	Check book charge	10.00		846,711.86
11.9.2014	Deposit # 57956-By UNDP Nairobi		859,616.09	1,706,327.95
11.9.2014	Bank comm. 1.5%	12,894.24		1,693,433.71
13.9.2014	Ch.No 100926- to Ali Abdirahman *	600,000.00		1,093,433.71
20.9.2014	Ch. No 100927-to ALI Abdirahman	600,000.00		493,433.71
24.9.2014	Ch. No 100928 to Ali Abdirahman	493,400.00		33.71
9.11.2014	Deposit # 64515-By UNDP Nairobi		86,932.00	86,965.71
9.11.2014	Bank comm. 1.5%	1,303.98		85,661.73

Accounting and Finance Department

Annex 3.3.g: Photo of the empty building site intended for a Ministry of Ports and Marine Transport office building

Figure 1 (below): Empty building site, 30 August 2015

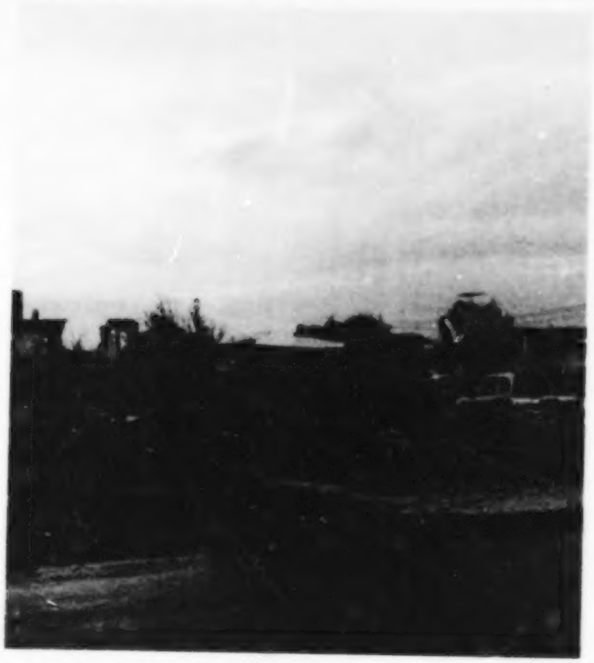
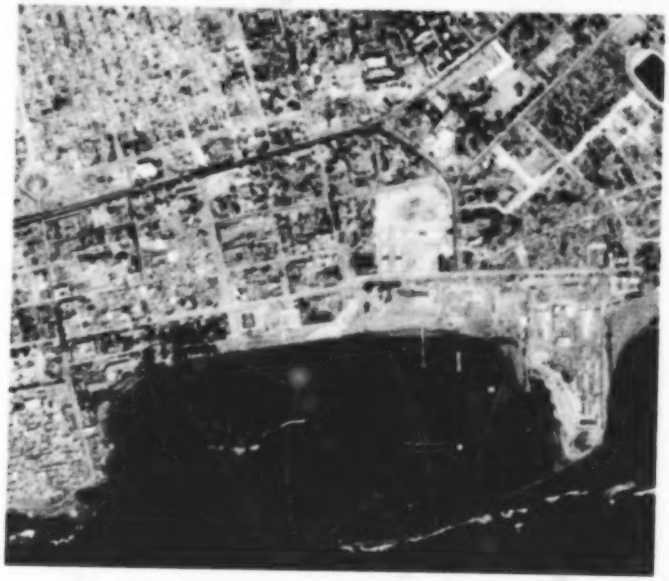


Figure 2 (below): Location of building site (coordinates: 2°02'26.1" N 45°20'56.2" E)



Annex 3.4: Illegal agreement relating to the taxation of khat imports

32. The Monitoring Group has uncovered the existence of an illegal agreement between the Somali company ADCO and the Federal Government of Somalia (FGS) for the collection of taxes on khat imported from Kenya through Mogadishu International Airport (MIA).[27] The agreement should have been submitted to the Financial Governance Committee (FGC) for review, but was not, so could be classified as part of the phenomenon of "secret contracting" as described by the Monitoring Group in a previous report (S/2014/726, paragraphs 66-69).

33. ADCO is the owner and operator of the K50 Airport, located 50 km west of Mogadishu, that was used for flights for the capital when MIA was closed due to fighting. Until late 2010, K50 Airport operated all flights transporting khat from Nairobi to Mogadishu. After Al-Shabaab took over the K50 Airport in October 2010, ADCO wrote to the Transitional Federal Government (TFG) and proposed to move the site for the import of khat to MIA, where they would collect taxes on the imported khat on behalf of the Ministry of Finance. The khat exporters syndicate – the Mira Umbrella Association (MUA) – wrote a letter to the Ministry of Finance nominating ADCO as their representative.[28]

34. At that time the Ministry of Finance was collecting USD 75,000 per month from import taxes on khat arriving at K50. ADCO proposed to pay the Ministry a flat fee of USD 120,000 per month. An agreement was signed between the Ministry of Finance and ADCO on 6 June 2011. The TFG authorised the tariffs.

35. The agreement was renewed each year and the monthly fee paid by ADCO increased as follows: USD 300,000 in 2012; USD 600,000 in 2013; USD 650,000 from March 2014; and USD 800,000 from September 2014 (available in annex 3.4.a). The fee increases were consistent with the increasing number of flights and quantity of khat imported through MIA. On 14 May 2015, the Ministry of Finance terminated the contract effective 15 June 2015 (see annex 3.4.b). From this point forward, the Ministry of Finance began to collect the taxes directly. The figures provided by the Ministry of Finance show that USD 401,080 was collected from 15 June to 1 July and USD 1,013,652 was collected in the month of July, already a substantial increase over the previously agreed monthly flat fee.

36. Following the cancellation of the ADCO contract, the MUA requested on 19 May 2015 to pay the tax on khat imports directly into the Treasury Single Account (TSA) and the Ministry agreed. On 16 June 2015, the MUA wrote to the Ministry of Finance requesting to pay a flat fee during the

---

[27] Khat (qat, qaat, ghat, chat, quaad, miraa) is a flowering plant native to the Horn of Africa. The binomial name of the plant is *Catha Edulis*. It contains a monoamine alkaloid called cathinone, an amphetamine-like stimulant. The World Health Organization classified it a drug of abuse in 1980. The production, sale and consumption of khat is legal in most East African countries (Djibouti, Kenya, Ethiopia, Somalia), while it is banned or considered a controlled substance in most others. Khat leaves are usually consumed while they are still fresh, within 48 hours after harvest, before the most potent chemical – the cathinone – decomposes.

[28] The MUA is a union of khat exporters and comprises over 40 countries based in Kenya.

fasting month of Ramadan due to low demand. They proposed paying USD 33,000 per day. On 24 June 2015, the Ministry of Finance agreed that the MUA pay USD 33,350 per day or USD 1,000,000 per month (see annex 3.4.c). The agreement with MUA would have been much like the one with ADCO, but for USD 1,000,000 per month instead of USD 800,000. According to the Minister of Finance, Mohamed Aden Ibrahim, there was no written contract and the agreement would have only been in place for a limited period of time.[29]

37. On 25 June 2015, the Attorney General of Somalia issued a decision declaring that the Minister of Finance's order regarding the taxation of khat by way of a flat monthly fee is against a Council of Ministers' decision and Somali fiscal legislation, and therefore must be stopped (see annex 3.4.d). The decision also stated:

> The Attorney General's Office will embark on an investigation as to why illegal modifications/amendments and lowering of taxes were made with regards to the khat tariff regime, bearing in mind that we are all aware of the financial difficulties the country is facing.[30]

The Ministry of Finance complied fully with the decision and started collecting import taxes on khat through the Customs Office.

38. Tax collection by a private company or entity which pays the government a flat fee and then is permitted to keep the difference in revenues gathered is unacceptable according to international standards. It is also illegal according to Somali fiscal legislation. The Customs Law No. 1, article 5 "Payment of Duties and Charges" states:

> The obligation to pay customs duty shall include the obligation to pay when due any duties or charges due upon the goods, the collection of which is a responsibility of the customs authorities, and such payment shall be made before the goods leave the customs area.[31]

39. The last tariff for the import of khat was set by the FGS at USD 2,000 per tonne. With an average of 21 tonnes imported into Mogadishu per day, this equates to possible revenues of USD 42,000 in taxes (USD 1,260,000 per month or USD 15,120,000 per year). Therefore even at the highest flat fee paid by ADCO of USD 800,000 per month (USD 9,600,000 per year[32]) the FGS failed to collect around USD 5,520,000 per year. In addition to the monthly flat fee paid to the FGS, ADCO was paying an average of USD 100,000 per month to the local authorities of Benadir region.[33]

40. In addition to the average 21 tonnes per day of khat that are imported in Mogadishu, another 21 to 28 tonnes per day are directed to Belet Weine, Adado, Galkayo or other cities according to demand. The Kenyan company Bluebird Aviation operates an average of six flights per day from Wilson

---

[29] Email to the SEMG by the Minister of Finance, 9 September 2015.

[30] Unofficial translation.

[31] The Customs Law in Somalia dates to 31 March 1961, but remains the legislation actually in place.

[32] This is the exact amount projected in the 2015 Budget for annual taxation on the import of khat.

[33] SEMG interview with senior FGS official in Mogadishu, 3 June 2015, and confirmed by sources inside MIA.

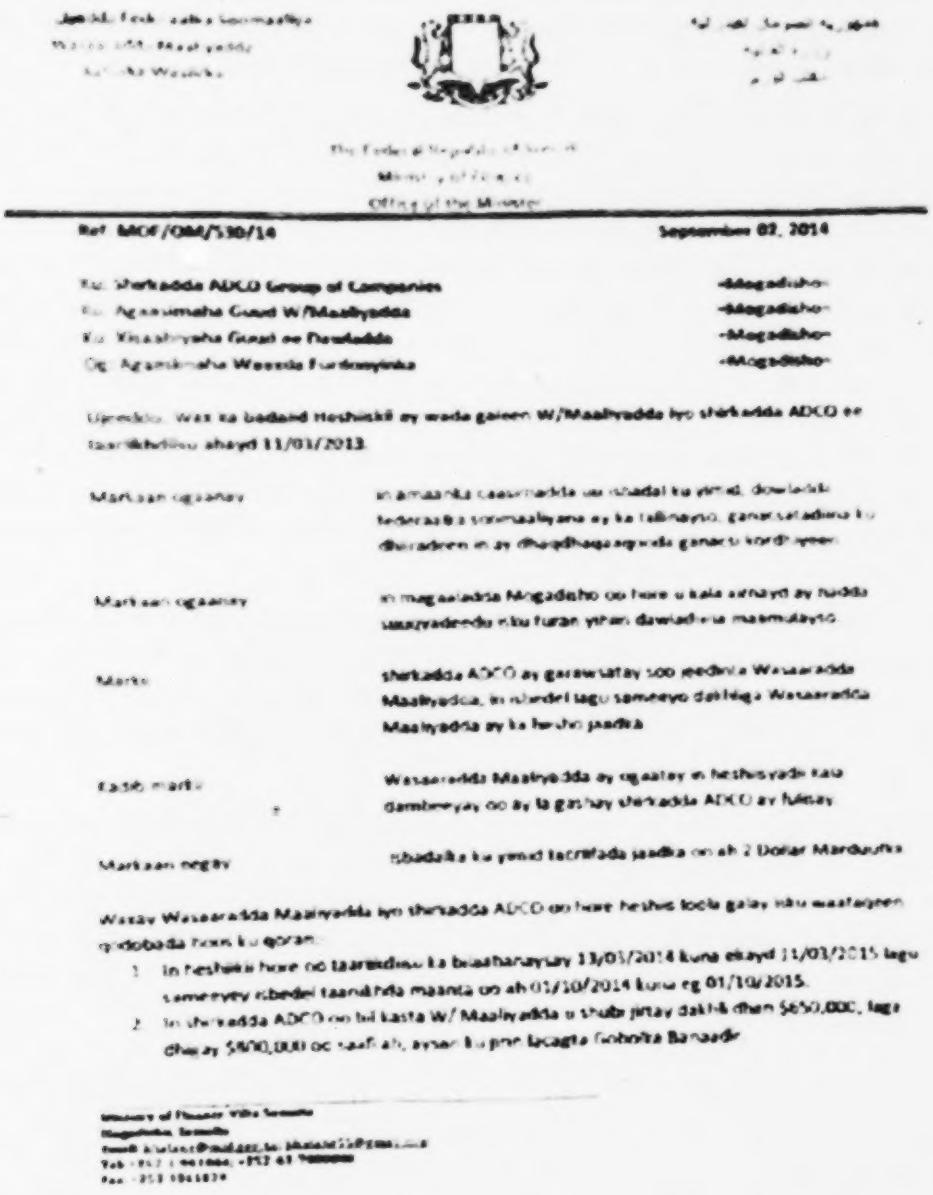
Airport in Nairobi to Somalia. Three of them land at Mogadishu International Airport and another three in different regions, according to the current demand. Another company, Skyward Express, operates one flight per day to Mogadishu. Kismayo is supplied separately with one daily flight. In northern Somalia, khat is also imported from Ethiopia and Djibouti by road.

41. A conservative estimate suggests that on average a total of 70 tonnes of khat enters Somalia daily. At an average market value of USD 15,000 per tonne, up to USD 1,050,000 worth of khat is imported daily and USD 383,250,000 is imported annually. This makes it one of the most lucrative businesses in the country. In terms of projected budgetary income, the import of khat comes in second after telecommunications. According to the Appropriation Act for the 2015 Budget, the telecommunications sector leads in terms of revenues generated at USD 13 million per year, followed by the taxation of imported khat at USD 9.6 million per year. The value of potential revenues generated from the taxation of imported khat amounts to three times more than import taxes on petroleum (USD 3.1 million) and the taxation of money remittance companies (USD 3.6 million), and four times more than taxes on the import of sugar (USD 2.2 million). The projected income from the taxation of imported khat of USD 9.6 million is based solely on the ADCO contribution, which represents less than one-third of the total khat imported to Somalia, so government revenues could likely be much higher if properly administered.

42. In addition to the social and economic impacts of khat consumption, the issue of lost government revenue is particularly concerning. At the latest FGS import tariff of USD 2,000 per tonne, and with an estimated 25,550 tonnes of khat imported into Somalia per year, a total of over USD 51 million should be collected. But in 2015, only USD 9.6 million of revenues from the taxation of khat imports was forecast in the Appropriation Act for the 2015 Budget.

43. An improvement in tax collection on khat imports is possible. The Ministry of Finance take-over of the tax collection on khat imports should increase the revenues by 40 to 50 per cent, to as much as USD 14 to 15 million per year. An agreement with Somalia's regional governments and with Bluebird Aviation Company to collect taxes on all the khat flown into the country could again double government revenues, as currently there is no accountability for tax collection on khat outside MIA, or how that money is used.

Annex 3.4.a: Final agreement between FGS and ADCO, September 2014



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Maaliyadda
Xafiiska Wasiirka

[illegible]

The Federal Republic of Somalia
Ministry of Finance
Office of the Minister

Ref: MOF/OM/530/14 September 02, 2014

Ku: Sharikadda ADCO Group of Companies -Mogadisho-
Ku: Agaasimaha Guud W/Maaliyadda -Mogadisho-
Ku: Xisaabiyaha Guud ee Dowladda -Mogadisho-
Og: Agaasimaha Waaxda Furdooyinka -Mogadisho-

Ujeeddo: Wax ka bedelid Heshiiskii ay wada galeen W/Maaliyadda iyo sharikadda ADCO ee taariikhdiisu ahayd 11/03/2013.

Markaan ogaanay	in amaanka caasimadda uu isbadal ku yimid, dowladda federaalka soomaaliyana ay ka talinayso, ganacsatadiina ku dhiiradeen in ay dhaqdhaqaaqyada ganacsi kordhiyeen
Markaan ogaanay	in magaaladda Mogadisho oo hore u kala xirnayd ay hadda [illegible] isku furan yihiin dawladduna maamulayso
Markii	sharikadda ADCO ay garawsatay soo jeedinta Wasaaradda Maaliyadda, in isbedel lagu sameeyo dakhliga Wasaaradda Maaliyadda ay ka helo jaadka
Kadib markii	Wasaaradda Maaliyadda ay ogaatay in heshiisyadii kala dambeeyay oo ay la gashay sharikadda ADCO ay fulisay
Markaan ogay	isbadalka ku yimid lacrifada jaadka oo ah 2 Dollar Marduufkii

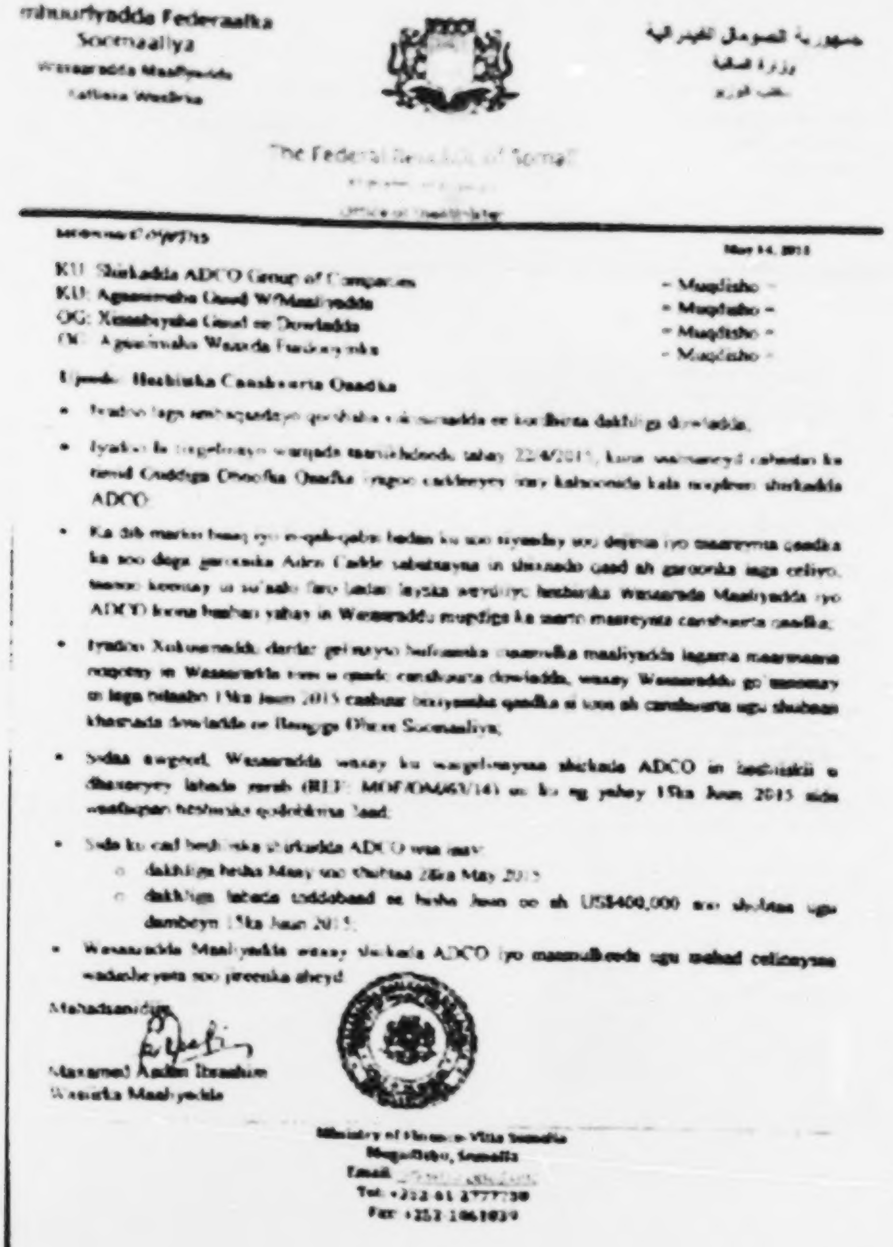
Waxay Wasaaradda Maaliyadda iyo sharikadda ADCO oo hore heshiis isula galay isku waafaqeen qodobada hoos ku qoran:

1. In heshiiska hore oo taariikhdiisu ka bilaabanaysay 11/03/2014 kuna ekayd 11/03/2015 lagu sameeyey isbedel taariikhda maanta oo ah 01/10/2014 kuna eg 01/10/2015.
2. In sharikadda ADCO oo bil kasta W/ Maaliyadda u shubi jirtay dakhli dhan $650,000, lagu dhigay $800,000 oo saafi ah, ayaan ku jirin lacagta Gobolka Banaadir

Ministry of Finance Villa Somalia
Mogadishu, Somalia
Email: [illegible]
Tel: [illegible]
Fax: [illegible]

BEST COPY AVAILABLE

Annex 3.4.b: Letter from FGS terminating ADCO contract, May 2015



Jamhuuriyadda Federaalka
Soomaaliya
Wasaaradda Maaliyadda
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة المالية
مكتب الوزير

The Federal Republic of Somalia
[illegible]
Office of the Minister

[illegible]

May 14, 2015

KU: Shirkadda ADCO Group of Companies – Muqdisho –
KU: Agaasimaha Guud W/Maaliyadda – Muqdisho –
OG: Xisaabiyaha Guud ee Dowladda – Muqdisho –
OG: Agaasimaha Waaxda [illegible] – Muqdisho –

Ujeedo: Heshiiska Canshuurta Qaadka

- [illegible] dakhliga dowladda.
- Iyadoo la tixgelinayo warqada taariikhdeedu tahay 22/4/2015, [illegible] Guddiga Dhoofka Qaadka [illegible] shirkadda ADCO;
- Ka dib markii [illegible] garoonka Aden Cadde [illegible] heshiiska Wasaaradda Maaliyadda iyo ADCO [illegible] maareynta canshuurta qaadka;
- Iyadoo Xukuumadda [illegible] maaliyadda [illegible] Wasaaradda [illegible] canshuurta dowladda, [illegible] 15ka Juun 2015 [illegible] Bangiga Dhexe Soomaaliya;
- Sidaa awgeed, Wasaaradda waxay ku wargelinaysaa shirkada ADCO in heshiiskii [illegible] (REF: MOF/OM/63/14) [illegible] 15ka Juun 2015 [illegible];
- Sida ku cad heshiiska shirkadda ADCO waa sidan:
  - dakhliga bisha May [illegible] 28ka May 2015
  - dakhliga labada toddobaad ee bisha Juun oo ah US$400,000 [illegible] dambeyn 15ka Juun 2015;
- Wasaaradda Maaliyadda waxay shirkada ADCO iyo maamulkeeda ugu mahad celinaysaa [illegible]

Mahadsanidiin,

Maxamed Aadan Ibraahim
Wasiirka Maaliyadda

Ministry of Finance Villa Somalia
Mogadishu, Somalia
Email: [illegible]
Tel: +252 61 [illegible]
Fax: +252 [illegible]

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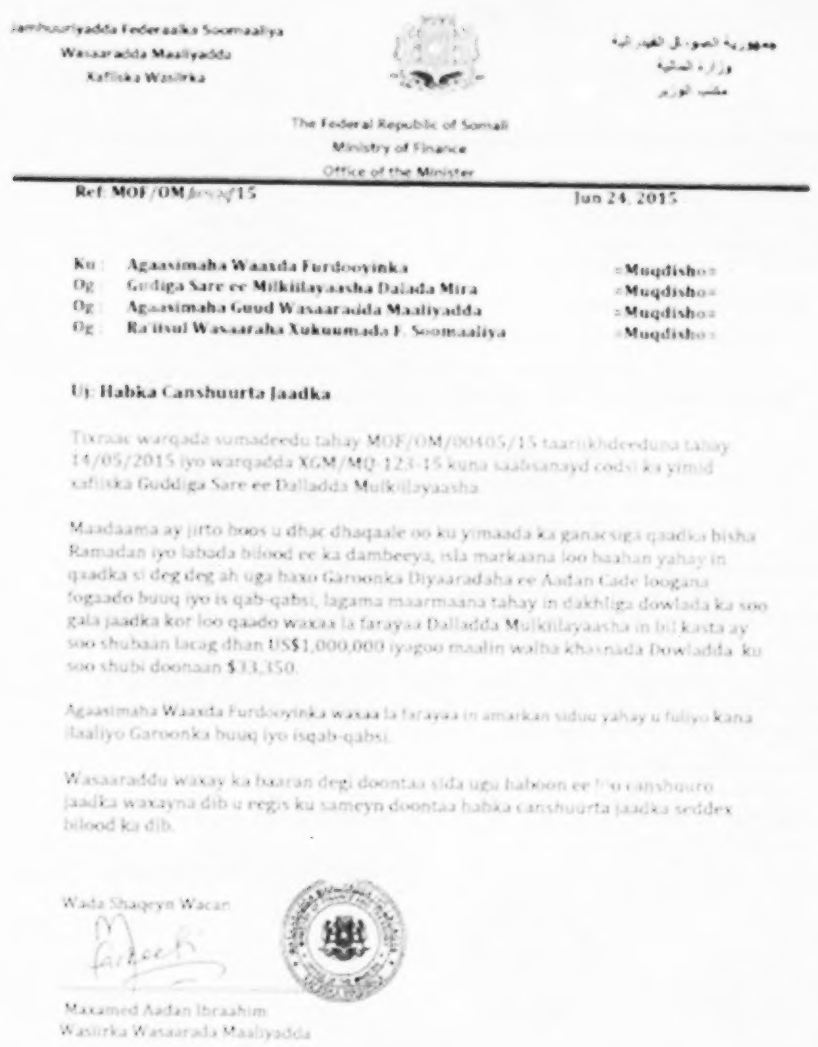
Annex 3.4.c: Letter from FGS agreeing payment terms by MUA, June 2015



Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Maaliyadda
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة المالية
مكتب الوزير

The Federal Republic of Somali
Ministry of Finance
Office of the Minister

Ref: MOF/OM/[illegible]/15

Jun 24, 2015

Ku : Agaasimaha Waaxda Furdooyinka **=Muqdisho=**
Og : Gudiga Sare ee Milkiilayaasha Dalada Mira **=Muqdisho=**
Og : Agaasimaha Guud Wasaaradda Maaliyadda **=Muqdisho=**
Og : Ra'iisul Wasaaraha Xukuumada F. Soomaaliya **=Muqdisho=**

Uj: Habka Canshuurta Jaadka

Tixraac warqada sumadeedu tahay MOF/OM/00405/15 taariikhdeeduna tahay 14/05/2015 iyo warqadda XGM/MQ-123-15 kuna saabsanayd codsi ka yimid xafiiska Guddiga Sare ee Dalladda Mulkiilayaasha.

Maadaama ay jirto hoos u dhac dhaqaale oo ku yimaada ka ganacsiga qaadka bisha Ramadan iyo labada bilood ee ka dambeeya, isla markaana loo baahan yahay in qaadka si deg deg ah uga baxo Garoonka Diyaaradaha ee Aadan Cade loogana fogaado buuq iyo is qab-qabsi, lagama maarmaana tahay in dakhliga dowlada ka soo gala jaadka kor loo qaado waxaa la farayaa Dalladda Mulkiilayaasha in bil kasta ay soo shubaan lacag dhan US$1,000,000 iyagoo maalin walba khasnada Dowladda ku soo shubi doonaan $33,350.

Agaasimaha Waaxda Furdooyinka waxaa la farayaa in amarkan siduu yahay u fuliyo kana ilaaliyo Garoonka buuq iyo isqab-qabsi.

Wasaaraddu waxay ka baaran degi doontaa sida ugu haboon ee loo canshuuro jaadka waxayna dib u eegis ku sameyn doontaa habka canshuurta jaadka seddex bilood ka dib.

Wada Shaqeyn Wacan

Maxamed Aadan Ibraahim
Wasiirka Wasaarada Maaliyadda

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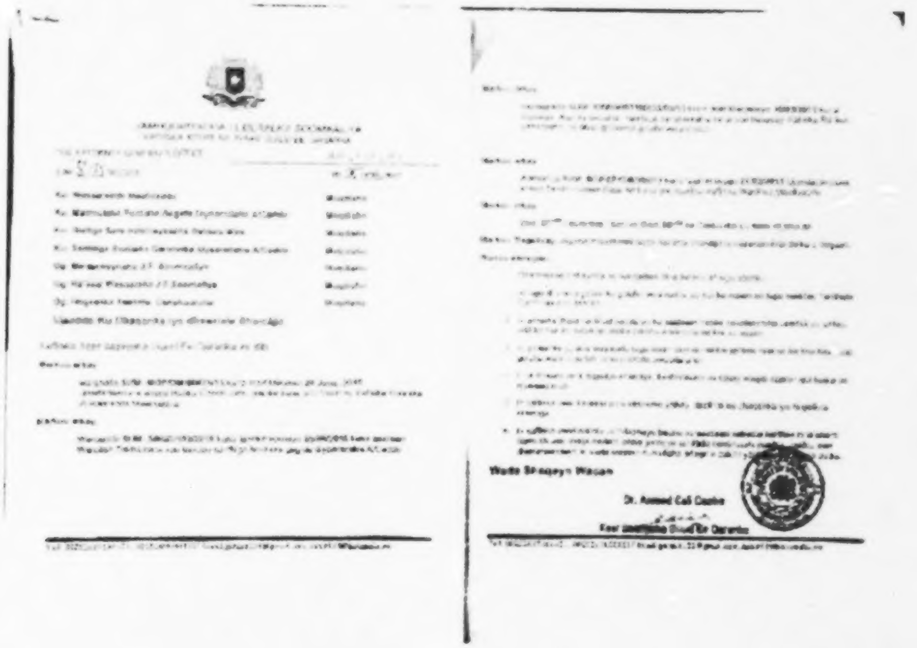
Annex 3.4.d: Letter from the Attorney General's Office outlining the decision regarding the taxation of khat imports



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Annex 4

Harakaat al-Shabaab al-Mujaahidiin

Annex 4.1: Mogadishu hotel attacks

1. In the Monitoring Group's previous report (S/2014/726, annex 1.3), the Group noted Al-Shabaab's more frequent use of improvised explosive devices (IEDs) and in particular the "growing modification" in the use of vehicle-borne improvised explosive devices (VBIEDs). During the mandate, Al-Shabaab has continued to carry out frequent 'complex' terror attacks in Mogadishu using VBIEDs. The group's most typical Tactic, Technique, and Procedure (TTP) is to use a VBIED to breach a perimeter, after which suicide gunmen or suicide bombers penetrate through the breach towards an inner target. The preferred targets during this mandate have been prominent Mogadishu hotels, often those at which Members of Parliament (MPs) or foreign delegates habitually congregate. Four such attacks are profiled below.

2. In its last report, the Monitoring Group commented on the level of infiltration of the Federal Government of Somalia (FGS) security forces by Al-Shabaab, and even indicated that the Amniyat had "infiltrated the FGS at the highest levels" (S/2014/726, annex 1.3). In at least two of the four cases profiled below, potential Al-Shabaab infiltration of the security forces, in particular the police and National Intelligence and Security Agency (NISA), appears to have played a role in the attacks.

Jazeera Palace Hotel (26 July 2015)

3. On 26 July 2015, a lorry carrying a VBIED rammed the gate of the Jazeera Palace Hotel, which housed both the Chinese Embassy in Mogadishu as well as other diplomatic missions. At least 13 people were killed, including a Somali journalist. The attack was notable for being the largest bomb employed in a terror attack in Somalia since 4 October 2011, when a suicide bomber drove a VBIED into a Transitional Federal Government complex in Mogadishu, killing 100 people, mostly students queuing for Turkish scholarships. The size of the blast indicated an explosives weight of roughly 400 kg of TNT or 2,000 kg of HME (homemade explosives).[1] Annex 4.1.a displays two photographs of the lorry containing the VBIED, shortly prior to detonation.

4. According to credible information,[2] the lorry was able to access the point of detonation because concrete barriers had been shifted the day before the attack. The reported rationale for this movement of these barriers was to allow access to vehicles engaged in the eviction of squatters from a neighbouring building.[3] If so, it is possible that the attackers had received prior information of the movement of the barriers from FGS security forces personnel involved with shifting the barriers.

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[1] Estimate provided by an international agency and private security company on the ground in Mogadishu.

[2] Provided by an FGS security agency.

[3] Ibid.

5. Additional credible information suggests that an FGS police commander as well as other officers had been arrested over their possible collaboration with the attackers, again suggesting potential Al-Shabaab infiltration of FGS security forces.

Makka Al-Mukarama Hotel (27 March 2015)

6. In a demonstration of the typical Al-Shabaab TTP discussed above, a VBIED detonated at the gate of Makka Al-Mukarama Hotel, which lies on the road linking Villa Somalia to the airport, on 27 March 2015. Five gunmen clad in Somali National Army (SNA) uniforms then entered the compound, initiating a siege that ended only hours later, when NISA special forces (*Gashaan*) stormed the building. At least 14 people were killed, including the FGS Ambassador to Switzerland, Yusuf Mohamed Ismail "Bari-Bari".

Central Hotel (20 February 2015)

7. In another example of the typical TTP, on 20 February 2015 a pre-deployed VBIED exploded inside the compound of the Central Hotel, where FGS officials were engaged in Friday prayers. Following the breach at the main gate, an Al-Shabaab suicide bomber penetrated the compound and blew himself up, according to police.[4]

8. At least 10 people were killed in the attack. The FGS Deputy Prime Minister, Mohamed Omar Arte, was present at the hotel and was injured during the attack, while two MPs were killed.[5]

9. Lul Ahmed Dahir, a Dutch national who worked at the hotel reception, is believed to have facilitated the entry of the VBIED into the Central Hotel compound.

Figure 1 (below): Scene of the Central Hotel attack

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[4] Abdi Sheikh and Feisal Omar, "Suicide attack targets Somali officials in hotel, kills 10 people", *Reuters*, 20 February 2015.

[5] One Western security source in Mogadishu suggested that Arte was the primary target of the attack.

SYL Hotel (22 January 2015)

10. On 22 January 2015, a VBIED exploded at the gate of the SYL Hotel, located in the vicinity of Villa Somalia. At the time of the attack a bilateral meeting between FGS officials and Turkish delegates was taking place, one day before Turkish President Recep Tayyip Erdoğan was due to visit Mogadishu. At least two police officers were killed in the explosion, though no members of the Turkish delegation were harmed.[6]

11. The Monitoring Group obtained a copy of a preliminary report, in the Somali language, prepared by a national committee appointed by President Hassan Sheikh Mohamud to investigate the SYL attack. The report revealed that in the aftermath of the incident, police removed or looted evidence from the scene, including the mobile phone used by one of the attackers. The owner of the vehicle used in the attack, identified as a 2002 white Toyota Ipsum, was taken into custody. In addition, the report concluded that,

> … at least 30 minutes before the explosion, the police that were assigned to the strategic venues that were essential to the security of the hotel and the guests had vacated their positions (unofficial translation).

12. In early March 2015, 11 members of the security forces – including three Al-Shabaab defectors working for NISA – were arrested in connection to the SYL attack.[7] Both of these events appear to indicate that infiltration by Al-Shabaab of the security forces, including NISA, was a factor in the planning of the SYL attack. However, by 11 June 2015, according to FGS Attorney General Dr. Ahmed Ali Dahir, all 11 suspects had been released.[8]

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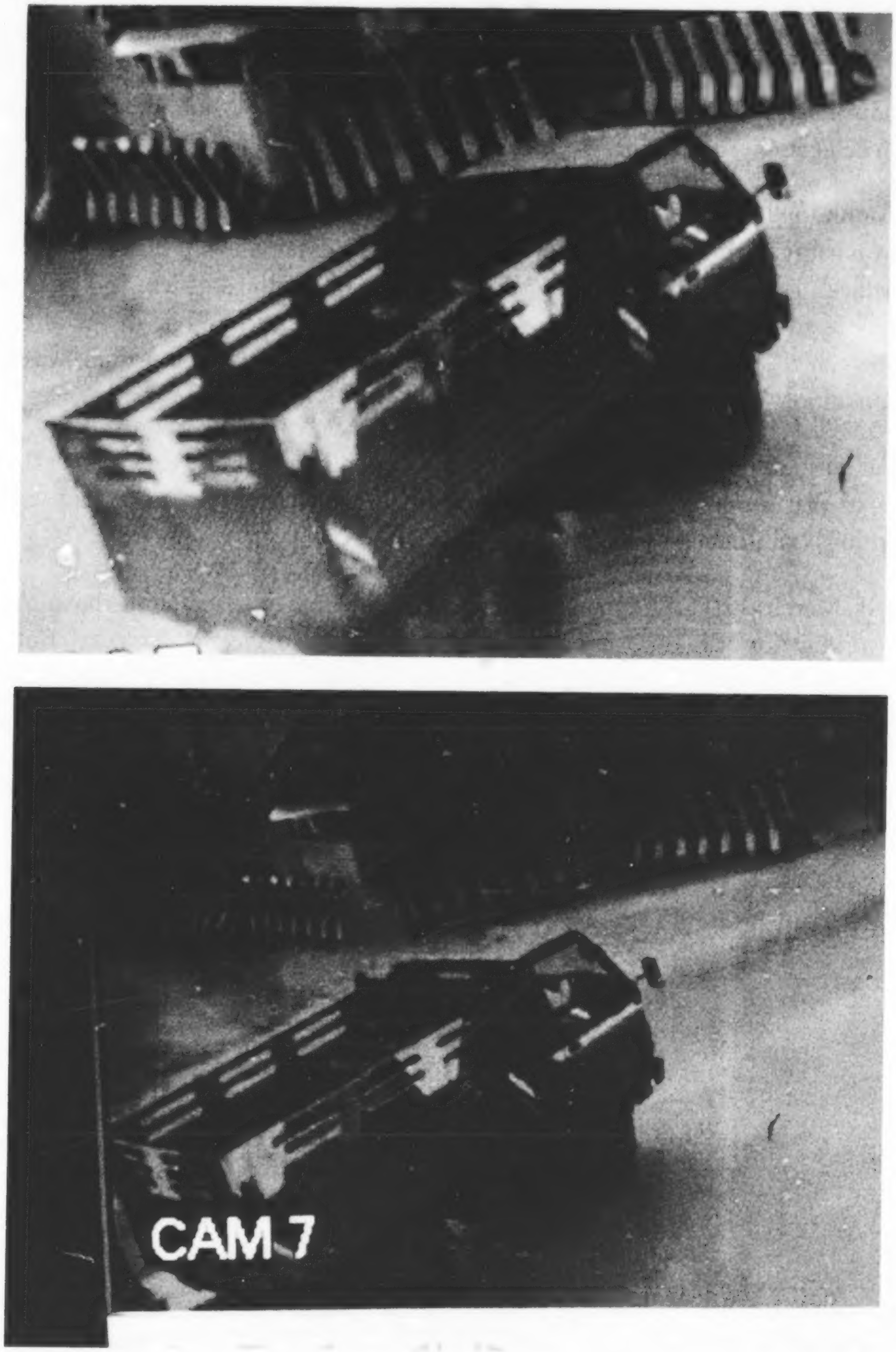
[6] Abdi Sheikh and Feisal Omar, "Bomb explodes near Turkish delegation in Somalia day before president's visit", *Reuters*, 22 January 2015.

[7] Information provided to the SEMG by a senior FGS intelligence official, 19 March 2015.

[8] SEMG interview with Dr. Ahmed Ali Dahir in Mogadishu, 11 June 2015.

Annex 4.1.a: Lorry used to transport VBIED to the Jazeera Hotel, shortly before the detonation



Annex 4.2: Garissa University College attack

Overview

13. In the early morning hours of 2 April 2015, four Al-Shabaab gunmen[9] stormed the campus of Garissa University College in North-Eastern Kenya, roughly 150 km from the border with Somalia. After killing at least a dozen students in an initial massacre, the militants herded others into Elgon B, a dormitory for female students, and barricaded themselves within (see satellite image in annex 4.2.f for the route taken by the attackers). The dormitory was strategically located in the rear of the university's campus and offered clear lines of sight across multiple directions and approach vectors. Indeed, once the militants had entered the dormitory, one gunman ascended to the second floor stairway, which he used as a sniper's nest to fend off Kenyan security forces personnel, as well as shoot at students sheltering in a neighbouring dormitory across a field (a photo of this sniping position is provided in annex 4.2.d).

14. Kenyan security forces personnel were slow to arrive on the scene. The General Service Unit's (GSU) elite commando unit, RECCE Squad, eventually arrived from Nairobi in the late afternoon and launched an assault on the dormitory, killing all four gunmen.[10] By roughly 6 p.m. the siege had ended. By that time the militants had executed over a hundred students holed up in the dormitory. The aggregate death toll from the attack amounted to 148, marking the attack as the deadliest on Kenyan soil since the 1998 U.S. Embassy bombing in Nairobi.

15. Following the attack, the Kenyan Government quickly named the Al-Shabaab regional leader Mohamed Mohamud "Gamadheere" ("long arms") as its mastermind, and raised the bounty on his capture (see annex 4.2.c for a photo of "Gamadheere"). "Gamadheere" had been previously linked to two Garissa church attacks in 2012, as well as the more recent 22 November 2014 massacre of bus passengers near Mandera.

Timeline of the Garissa University Attack

Prior to attack

- Multiple security sources informed the Monitoring Group that the attackers were present in Garissa 10-14 days prior to the attack, moving between residences in Garissa's market district (*Bulo Mugdi*).

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[9] The gunmen were armed with AK-47 assault rifles and grenades; while it was widely reported in the media that they were equipped with suicide vests, the Monitoring Group has determined this not to be the case. SEMG interviews with Garissa University College campus security officer, 17 June 2015, and regional security source, 18 June 2015. However, one of the militants may have rigged a number of grenades to serve as a makeshift suicide device.

[10] Abdirahim Abdullahi, a law graduate and the son of a prominent Mandera official, was identified as one of the gunmen killed in the attack.

2 April 2015

05:30-06:30:

- Four attackers reach the main gate at Garissa University College in two Toyota Proboxes. They shoot dead two unarmed guards manning the gate and injure two others. The militants' entry to the campus is facilitated by an unsecured pedestrian gate, which is open to allow residents of the town to attend the campus mosque for Friday prayer;
- Two additional guards run into the campus mosque for cover and are unharmed;
- The attackers engage two policemen once inside the compound; the latter quickly retreat following a brief exchange of fire;
- The gunmen proceed to a classroom being used as a Good Friday prayer centre, where they shoot and kill between 12 and 18 students engaged in prayer or working on school assignments;
- The attacks split into two teams, herding students towards the Elgon dormitories at the South-Eastern end of the campus;
- Between 107 and 113 students are massacred in Elgon B dormitory, the majority within an hour of the attackers entering the campus.

06:30-06:45:

- Police officers arrive at the university campus and begin to cordon off the scene.

07:00-07:30:

- Kenya Defence Force (KDF) special forces troops from the nearby Garissa barracks arrive at the campus.

10:00:

- Mobile phone coverage to the surrounding area is switched off.

12:45:

- Al-Shabaab-linked media outlets announces a recent press conference held by Al-Shabaab military spokesman Sheikh Abdulaziz Abu Muscab, in which the group claims responsibility for the attack.

14:00-15:00:

- GSU RECCE squad arrives in Garissa.

17:00-18:00:

- GSU RECCE squad storms the dormitory, bringing the siege to a close.

3 April 2015

- A survivor of the attack, Tanzania national Rashid Charles Mberesero, is found hiding in Elgon B. Although he claims to be a student, he is implicated in the plot and arrested at the scene.

Failure of security

16. At the time of the Al-Shabaab attack, Garissa University was protected by four police officers and 12 unarmed private guards – five stationed by the main gate and seven by the rear of the campus. A breach in the compound's wall had been recently repaired at the insistence of the university's principal, Dr. Ahmed Osman Warfa.[11] Warfa told the Monitoring Group that he was aware that the campus' security arrangements were inadequate, and that he had contacted local authorities on numerous occasions but had "not been taken seriously by anyone".[12]

17. The Monitoring Group has obtained copies off five letters sent by Warfa from December 2014 to March 2015 to various senior Kenyan officials, warning of a potential attack and requesting security upgrades to the university campus. The first of these, a 4 December 2014 letter from Warfa to the Deputy County Commissioner for Garissa, requested the deployment of additional police:

> Following many incidences of terrorist attacks in many parts of northern Kenya which has posed a great security threat to Garissa town and its environs, I write to request for additional six police officers to help beef up security at the campus…In the view of the above, some students are worrying and panicking about their security.[13]

18. In an 18 December 2014 letter to the local division police commander, Warfa requested the creation of a police post at the university, as "a matter of urgency".[14] A 9 January 2015 letter to the Garissa County Commissioner – the presidential appointee responsible for coordinating security countywide – described local insecurity causing students to "fear for their safety as they

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[11] SEMG interview with Ahmed Osman Warfa in Garissa, 17 June 2015.
[12] Ibid.
[13] Letter on file with the Monitoring Group.
[14] Letter on file with the Monitoring Group.

are returning from holidays".[15] The final letter from Warfa, dated 16 March 2015, just over two weeks prior to the attack on the university, repeated his previously unheeded request for the creation of a campus police post to the County Commissioner:

> This [police post] will help enhance and beef up our security on campus. There are four police officers currently deployed to the University College, as well as police patrols around the college at night. I would appreciate if you take this as a matter of urgency and consider our request. (This letter is reprinted in its entirety in annex 4.2.a).

Despite Warfa's requests for assistance, no additional security measures were put in place by local or national authorities.

Failure of communication

19. The success of Al-Shabaab's attack on Garissa University College was more due to a failure of communication than a lack of actionable intelligence. Since at least 25 March 2015, intelligence warning of an imminent attack against an educational institution in Kenya had been widely disseminated; the University of Nairobi, Kenyatta University, and the United States International University – all institutions based in Nairobi – were on high alert. A note dated 25 March 2015 and posted around the campus of the University of Nairobi warned students and staff that "intelligence reports indicate that the al-Shabaab terror group is planning retaliatory attacks on…a major university".[16] In addition, Western embassies warned of an imminent attack on an education institution in Kenya; however, it appears as if the Kenyan security forces did not regard Garissa University as a primary target.[17]

20. On the evening of 31 March 2015, Warfa received an SMS alert from police advising of a possible attack against four targets: Garissa Teachers Training College, NEP Technical Training Institute, Garissa Medical Training College, and Garissa University College. Warfa told the Monitoring Group that the SMS only advised recipients to "be alert" and was similar to others he received on a regular basis.[18] The generic nature of the message, said Warfa, led him to believe that the threat was not credible, or at least not out of the ordinary.[19]

21. However, an SMS received by a senior Kenya police officer based in Wajir fewer than 12 hours prior to the attack (see annex 4.2.b) is evidence of the fact that more detailed intelligence of the Garissa University plot existed immediately prior to its execution. The SMS

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[15] Letter on file with the Monitoring Group.

[16] Elsa Buchanan, "Garissa University attack: Kenyan universities warned of pending al-Shabaab 'retaliation'", *International Business Times*, 2 April 2015. Available from http://www.ibtimes.co.uk/garissa-university-attack-kenyan-universities-warned-pending-al-shabaab-retaliation-1494711.

[17] SEMG interviews with Kenyan intelligence officials and security analysts.

[18] SEMG phone interview with Warfa, 31 August 2015.

[19] Ibid.

makes reference to Al-Shabaab operatives 30 km from the town, imminently poised to attack either Garissa University or Garissa Teachers Training College. This message was not transmitted to Warfa until over a month after the fact. Since Kenyan police evidently possessed the intelligence, it is unclear why it was neither acted upon – for example, by heightening the police presence in or near the university – nor transmitted to the administrators of the targeted institutions. A regional security source summarised the problem when he told the Monitoring Group that in the Kenyan security forces, there is a "disconnect between the collection of intelligence and the use of intelligence".[20]

22. This disconnect between the collection and actioning of intelligence was also a factor in the failure to prevent the Westgate shopping mall attack ("*Badru Nairobi Operation*") of 21 September 2013. In the run up to the incident, available intelligence indicators prior to the attack were ignored or not passed on to the relevant security forces on the ground (see S/2014/726, strictly confidential annex 2.1). In the case of the Garissa University attack, conversely, the intelligence was both available and passed on to the local police; however, the police failed to effectively transmit the information to relevant parties on the ground, or take effective security measures of their own.

Failure of coordination

23. During the Westgate shopping mall attack ("*Badru Nairobi Operation*"), failure of coordination between the Kenyan security forces was a defining factor in the response to the attack. Both KDF and GSU units arrived at the scene, and confusion over the command and control structure, as well as inter-agency rivalry, contributed to a botched response that allowed the siege to drag out over three days. The lack of coordination also resulted in the GSU RECCE squad commander being killed by friendly fire.

24. While the Kenyan security forces' response to the Garissa University attack avoided the command and control failings of the Westgate incident – the KDF cordoned off the area and duly waited for the RECCE unit to arrive – the slow response of the local police, and the logistics of transporting RECCE squad from Nairobi, were immediately identified for criticism. As the police air wing in Nairobi was unavailable, the GSU RECCE squad travelled by a combination of commercial airplane and road, despite the availability of KDF helicopters. It is unclear why GSU did not request the use of KDF aerial assets, though inter-agency rivalries may have played a role.[21] As a result, it was ten hours before the RECCE squad was in position to launch an assault against the militants' position.

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[20] Interview with the SEMG in Nairobi, 4 July 2015.

[21] SEMG interview with a regional security source in Nairobi, 11 April 2015.

Aftermath and Kenyan Government response

25. On 4 April 2015, Al-Shabaab released a statement blaming the Kenyan government for "unspeakable atrocities against the Muslims of East Africa", and further stated,

> We will, by the permission of Allah, stop at nothing to avenge the deaths of our Muslim brothers until your government ceases its oppression and until all Muslim lands are liberated from Kenyan occupation.

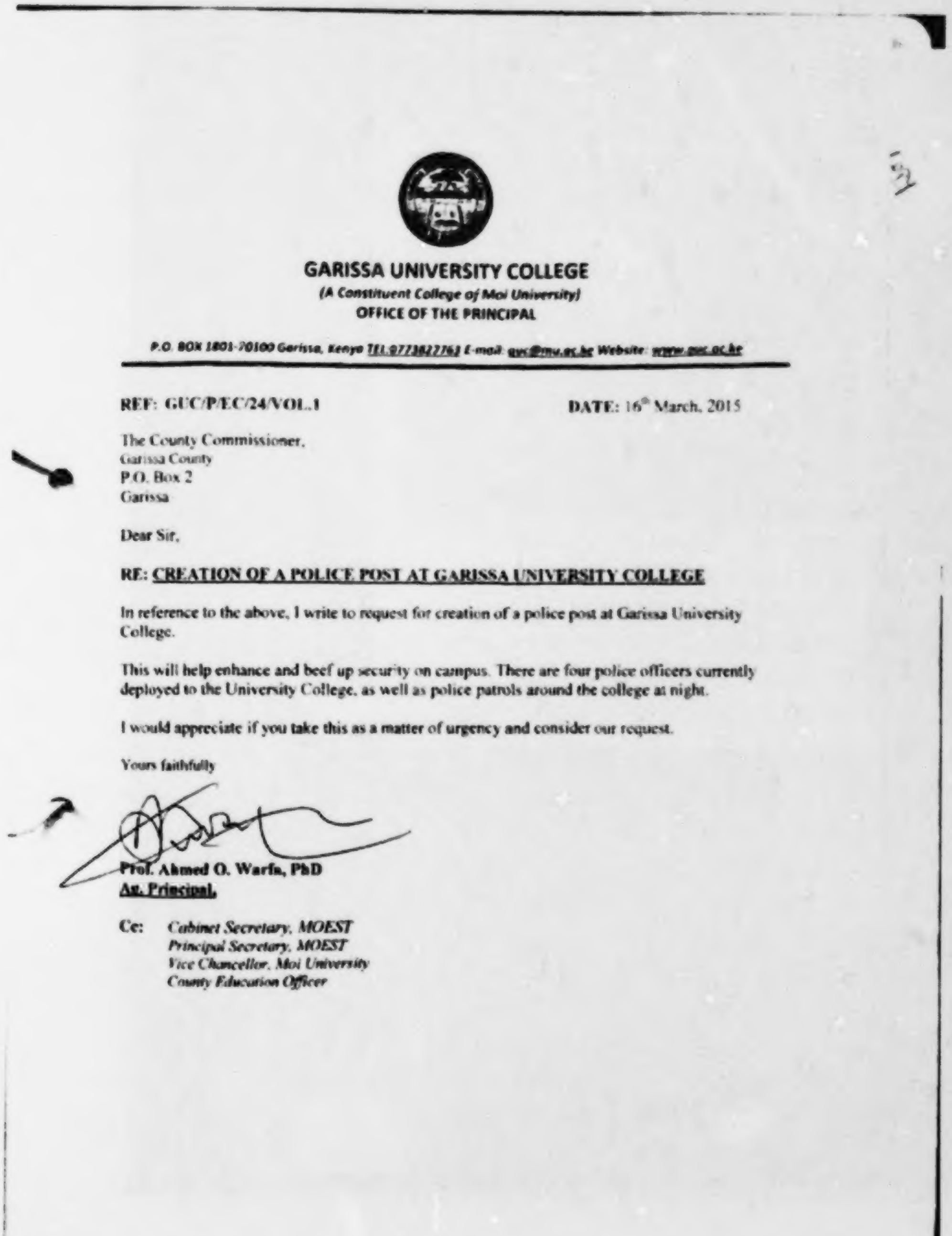
The message aligned with the stated aim of Al-Shabaab's regional operations, which is to strike on the home fronts of countries contributing troops to the AMISOM mission.

26. In the aftermath of the attack, the Kenyan Government offered a KES 20,000,000 (USD 190,000) reward for information leading to "Gamadheere's" capture. The Monitoring Group has been unable to establish a definitive link between "Gamadheere" and the attackers. However, two regional security sources told the Group that "Gamadheere" had been in mobile phone contact with a campus security officer who assisted the attackers by conducting reconnaissance, and was found with photographs on his mobile phone in the aftermath of the attack – probably intended for propaganda purposes.

27. In June 2015, five suspects were charged in Kenyan court with a combined 152 terrorism offences, including the Tanzania national arrested at the scene, Rashid Charles Mberesero.

28. The Kenyan Government also published a list of 86 companies and individuals suspected to be lending support to Al-Shabaab; these included a number of *hawala* transfer companies and bus companies, as well as NGOs. Thirty of these names later appeared in a second, confidential list on 25 April 2015 as participants in the illicit sugar trade, which is a known source of revenue for Al-Shabaab (see strictly confidential annex 4.2.e for a copy of this list).

Annex 4.2.a: Letter from Garissa University College principal Dr. Ahmed Osman Warfa to the Garissa County Commissioner, requesting the creation of a police post



GARISSA UNIVERSITY COLLEGE
(A Constituent College of Moi University)
OFFICE OF THE PRINCIPAL

P.O. BOX 1801-70100 Garissa, Kenya TEL:0773822763 E-mail: guc@mu.ac.ke Website: www.guc.ac.ke

REF: GUC/P/EC/24/VOL.1 **DATE:** 16th March, 2015

The County Commissioner,
Garissa County
P.O. Box 2
Garissa

Dear Sir,

RE: CREATION OF A POLICE POST AT GARISSA UNIVERSITY COLLEGE

In reference to the above, I write to request for creation of a police post at Garissa University College.

This will help enhance and beef up security on campus. There are four police officers currently deployed to the University College, as well as police patrols around the college at night.

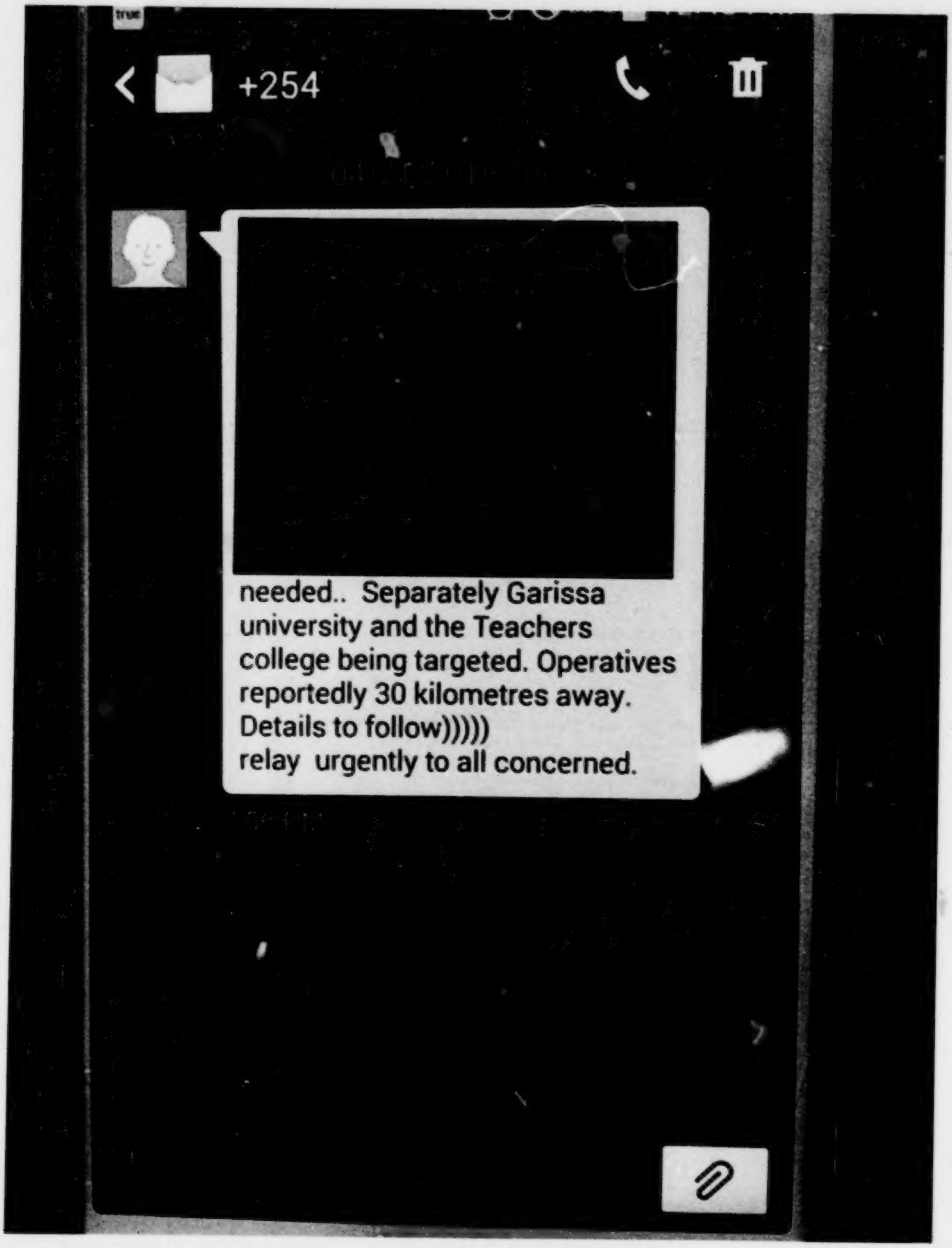
I would appreciate if you take this as a matter of urgency and consider our request.

Yours faithfully

Prof. Ahmed O. Warfa, PhD
Ag. Principal,

Cc: *Cabinet Secretary, MOEST*
Principal Secretary, MOEST
Vice Chancellor, Moi University
County Education Officer

Annex 4.2.b: Text message warning of an imminent attack against Garissa University

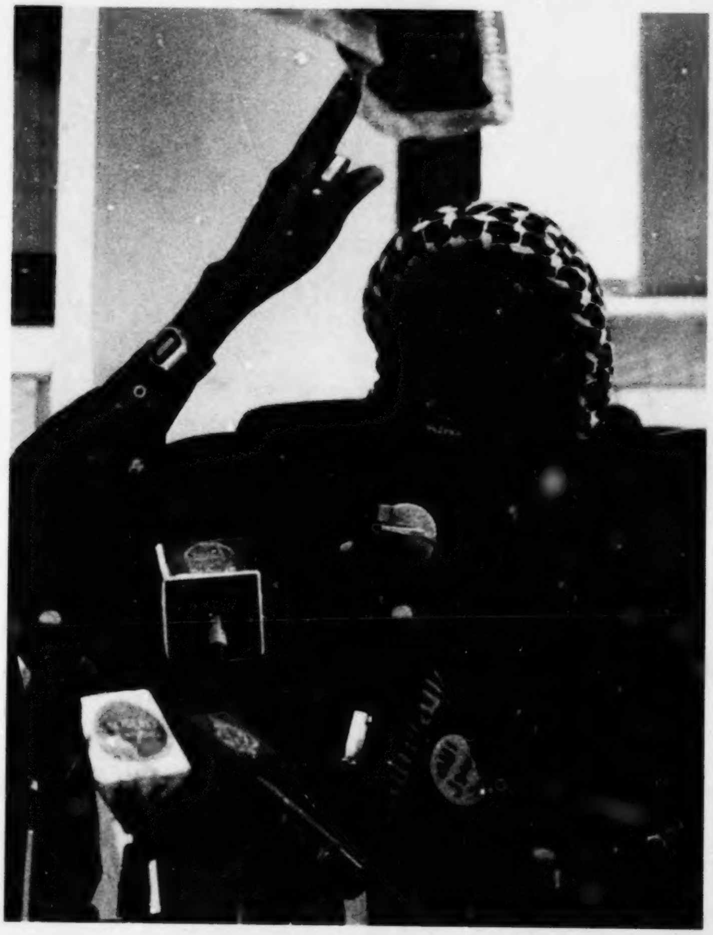


+254

[redacted]

needed.. Separately Garissa university and the Teachers college being targeted. Operatives reportedly 30 kilometres away. Details to follow)))))
relay urgently to all concerned.

Annex 4.2.c: Photo of Mohamed Mohamud "Gamadheere", the suspected mastermind of the Garissa College University attack



Annex 4.2.d: Photographs of Garissa University campus

Figure 1 (below): Classroom used as Good Friday prayer centre, where four Al-Shabaab gunmen killed between 12 and 18 students

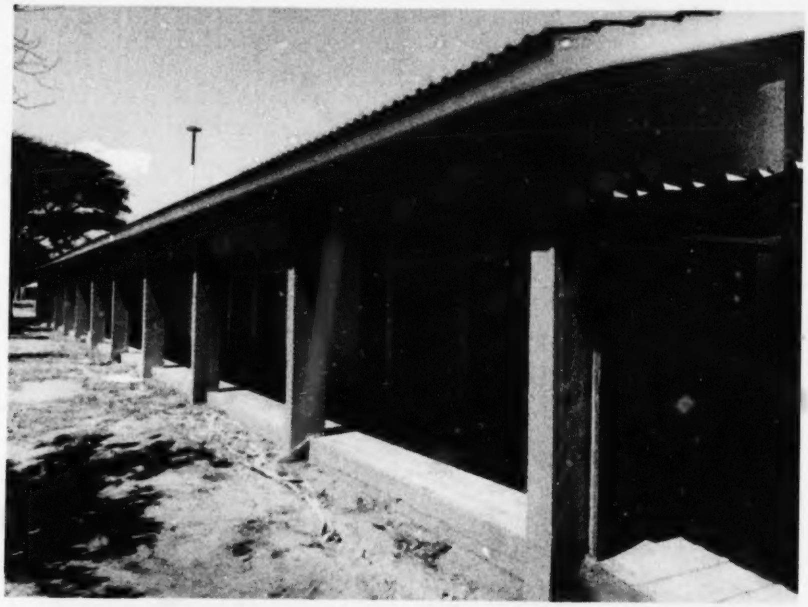


Figure 2 (below): Elgon A dormitory

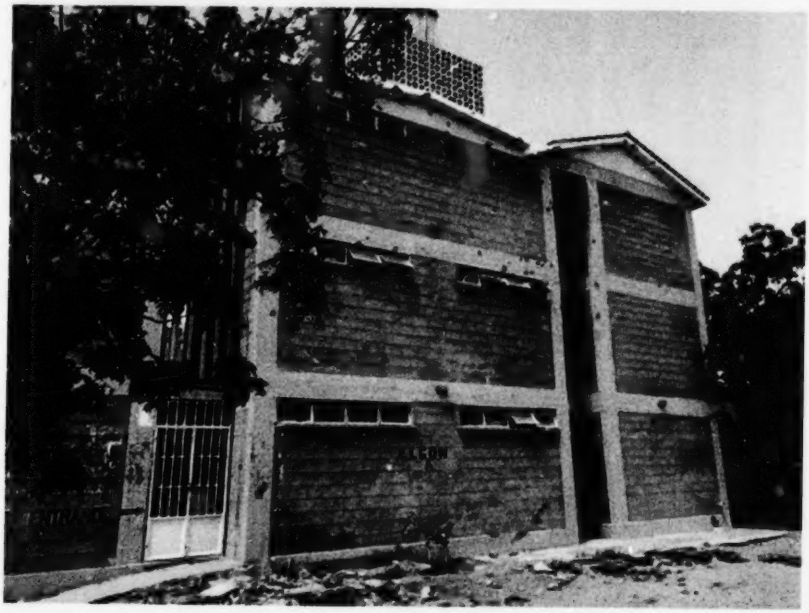


Figure 3 (below): Second floor stairway used as a sniper nest by one of the militants

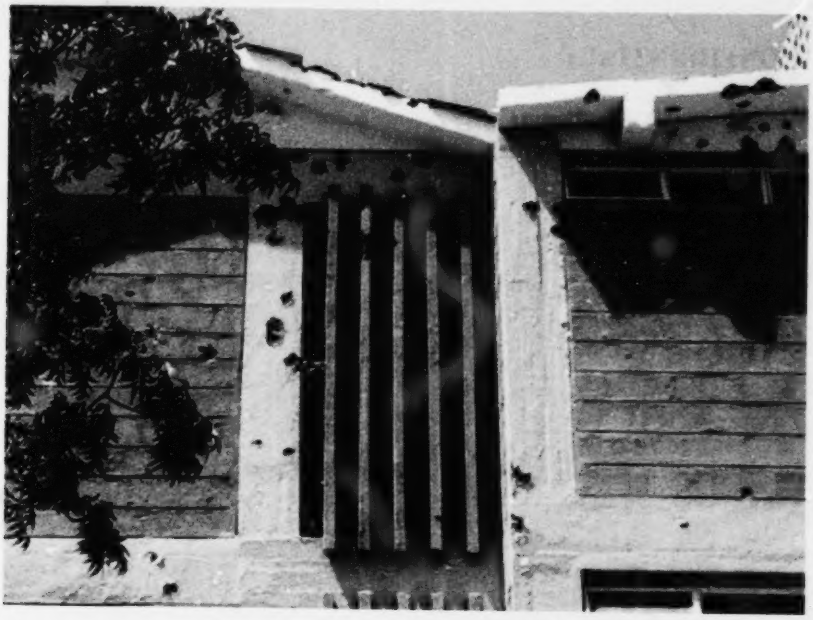


Figure 4 (below): Interior of Elgon B dormitory, where militants executed the majority of the students held hostage within

Annex 4.2.e: Confidential Kenyan Government list of 30 individuals implicated in sugar smuggling

(STRICTLY CONFIDENTIAL)[*]

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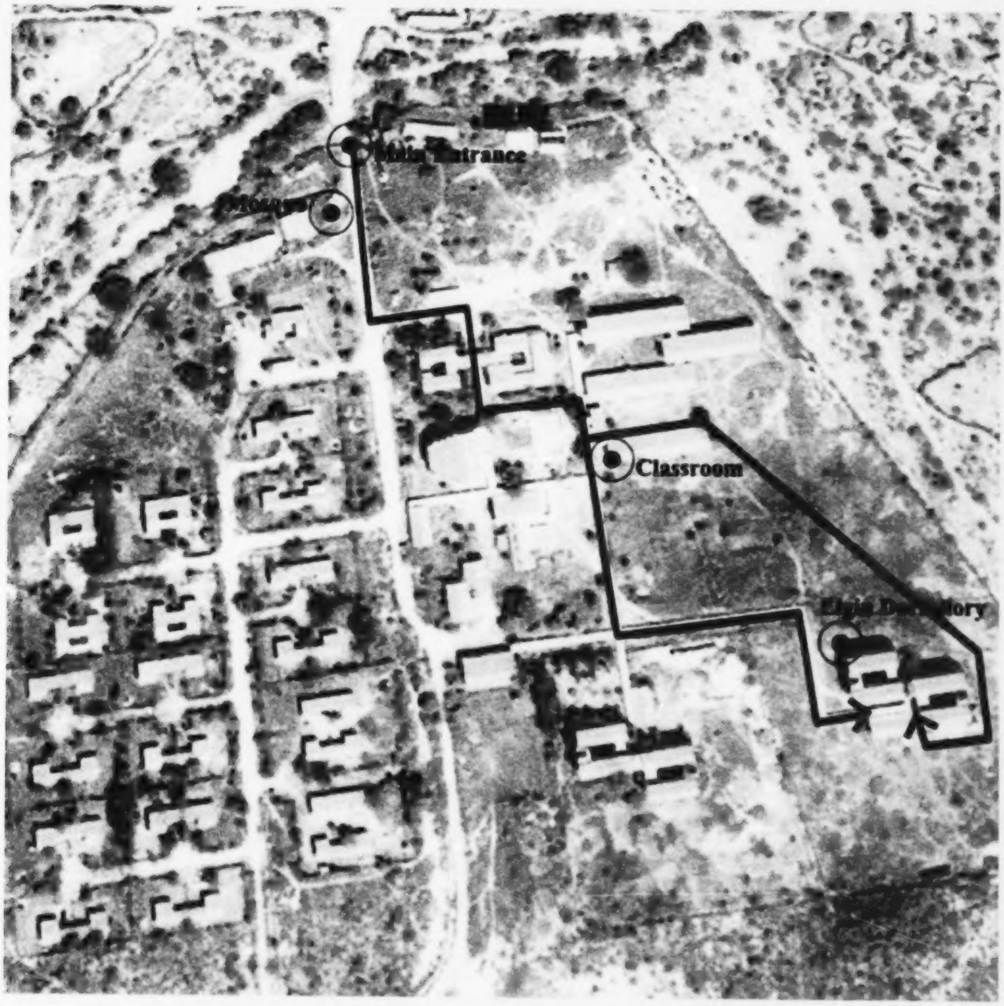
[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 4.2.f: Garissa University College campus, showing the route taken by the attackers


Main Entrance
Mosque
Classroom
Elgin Dormitory

Annex 4.3: Failed January 2015 Al-Shabaab plot in Djibouti

(STRICTLY CONFIDENTIAL)[*]

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[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 4.4: Al-Shabaab and heroin trafficking

29. The eruption of the Syria conflict in 2011, as well as improved law enforcement measures along traditional heroin smuggling routes, has resulted in East Africa increasingly being used as a route to traffic heroin from Afghanistan into Europe.[22] Commentators have speculated that Al-Shabaab earns revenue off the East Africa heroin trade, though no conclusive evidence has yet been presented to support this claim.[23]

30. Pursuant to its investigations into the financing of Al-Shabaab, the Monitoring Group has received credible information regarding the MV *Amin Darya* (IMO #8630784)[24], a vessel carrying as much as 800 kg of heroin intercepted on 15 July 2014 by Kenyan authorities and subsequently destroyed.[25] Nine foreign nationals were arrested in Kenya over the bust: six Pakistanis, two Indians and an Iranian.[26]

31. The Group's information indicates that the vessel stopped for 10 days off the coast of Hobyo, in Central Somalia, prior to proceeding towards Kenya. During that time it took on supplies as well as gunmen – possibly affiliated with Al-Shabaab – who later disembarked. A businessman in Dubai, also possibly with links to Al-Shabaab, was in continual contact with the traffickers.[27] The Monitoring Group has ascertained the name of this businessman to be Javed Ali. Ali was reportedly in continual contact with the arrested traffickers through the phone selector 971 556 [redacted], and he has been linked the email address [redacted]@yahoo.com.[28] The Monitoring Group attempted on multiple occasions, beginning in May 2015, to contact Javed Ali through both his email address and mobile phone, but both appeared to be inactive. The Dubai-based company A. Ebrahimi & Partners[29] appointed one of the suspects who was intended to serve as the clearing agent in Mombasa for the seized vessel.[30]

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[22] "The Smack Track: East African states are being undermined by heroin smuggling", *The Economist*, 17 January 2015. Available from http://www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track.

[23] As one example, two researchers investigating East Africa ivory smuggling routes for an international consultancy queried the SEMG about Al-Shabaab's links to heroin trafficking during a 21 July 2015 meeting in Nairobi.

[24] The MV *Amin Darya's* flag state is alternatively listed as Iran or Sierra Leone.

[25] While most media reported the MV *Amin Darya* to be carrying between 300 and 400 kg of heroin, a source with intimate knowledge of the case told the SEMG that the amount to be closer to 800 kg.

[26] "Kenya charges 9 foreigners including two Indians over 377-kg heroin haul", *Reuters*, 31 July 2014. Available from http://in.reuters.com/article/2014/07/31/uk-kenya-drugs-idINKBN0G022M20140731.

[27] Information provided to the Monitoring Group by a Kenyan security agency, 15 May 2015.

[28] Ibid.

[29] Name of company provided by regional security source. Open source maritime databases list the shipowner of the MV *Amin Darya* as Ebrahim A.M. of Dubai.

[30] Information provided to the Monitoring Group by a Kenyan security agency, 15 May 2015.

32. The Monitoring Group sent official correspondence[31] to the UAE on 5 August 2015 requesting detailed information concerning Javed Ali and A. Ebrahimi & Partners/Ebrahim A.M. and their possible links to Al-Shabaab, but did not receive a response.

33. Although Al-Shabaab maintains a presence in Hobyo, it is not a major base of operations for the group. It is therefore possible that the crew of the MV *Amin Darya* was involved in smuggling of other goods into central Somalia, unconnected to Al-Shabaab. Over the course of its mandate, the Monitoring Group has received numerous unconfirmed reports of Iran-flagged vessels involved in the transport of weapons and fuel to central Somalia.[32] The Group also notes that Javed Ali, the Dubai businessman in contact with the traffickers, bears an Iranian name.

34. The Group is continuing its investigation into Al-Shabaab's possible links to heroin trafficking.

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[31] S/AC.29/2015/SEMG/OC.34.

[32] The existence of an Iran-based fuel smuggling network into central Somalia was strongly advocated by a regional intelligence source in a 6 August 2015 interview with the SEMG.

Annex 5

Obstruction of humanitarian assistance

Annex 5.1: Denial of humanitarian access[1]

1. This annex addresses both some of the most persistent and serious obstructions to humanitarian access observed during the mandate.

Implications of Al-Shabaab territorial retreat and transfer of authority[2]

2. Access by civilian populations to essential goods and services continued to be a battleground in the conflict between the FGS and its partners and Al-Shabaab

3. Al-Shabaab actively obstructed access both inside and outside of its shrinking territory, driven by both ideological and strategic objectives, conducting attacks on humanitarian workers and operations but also on private entities providing basic necessities and services.[3] In areas where it remained the predominant authority it ensured a hostile environment for humanitarian operations, banning certain non-governmental organisations (NGOs) and United Nations (UN) agencies, restricting freedom of movement, and forcing the confinement of the civilian population. In some instances, individuals and their families were punished for accessing humanitarian assistance outside of Al-Shabaab controlled territory.[4] In others, threats by Al-Shabaab to prospective beneficiaries of assistance resulted in the postponement of distributions.[5]

4. In many instances where it had officially ceded territory, Al-Shabaab continued to make its presence felt, creating a climate of fear which dissuaded humanitarian operations. In Dinsor for example, over a month after the official transfer of authority, in late August 2015 night time incursions by Al-Shabaab and phone threats to residents made the situation very tense and humanitarians reluctant to return.[6]

5. The most significant obstruction to both humanitarian and basic livelihood activities, however, was Al-Shabaab's violent enforcement of economic blockades on towns and key access routes in Bakol, Hiran and Lower Shabelle, involving the killing of civilians and livestock, and the burning of vehicles. In Walag village, for example, six civilians and their donkeys were killed during one night alone on 31 May 2015, allegedly as punishment for

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[1] Denial of humanitarian access entails blocking the free passage or timely delivery of humanitarian assistance to persons in need as well as the deliberate attacks against humanitarian workers.

[2] Sourcing for some elements of this section is absent for security reasons.

[3] See, for example, reports that Al-Shabaab fighters ambushed ENDF forces escorting a food aid convoy in Luuq Jeelow on 7 January 2015. Email from reliable NGO source, 8 January 2015.

[4] See annex 6.2a and strictly confidential annex 6.2.b.

[5] Specific instances were documented by the Monitoring Group.

[6] See UN inter-agency assessment mission report, Dinsoor, Bay region, 18 August 2015 on file with the Monitoring Group.

transporting goods to Wajid town.[7] The blockades against Buloburte[8] and Hudur[9] was also strictly policed, although by July 2015 it was being reported that there was an improved range and volume of food in the markets of the latter.[10]

6. Al-Shabaab blockades not only impacted movement of goods but also access to farmland and agricultural labour opportunities in the hinterland, directly as a result of checkpoints and restrictions of movement, but also indirectly, in terms of movement of fuel for farm machinery, tools and seeds. A month after Dinsor changed authority, for example, Al-Shabaab continued to impose a blockade and collect 'taxation', disrupting farming and other productive activities.[11] These activities not only impacted their immediate target but had a cascade effect on security and markets in other towns. The populations in the surrounding villages also greatly suffered. Around Hudur, for example, not only were local farmers unable to sell their goods in the town, they were also forced to continue paying taxes on produce which they could not sell.[12]

7. The presence of Al-Shabaab near access routes presented an even greater threat as the third phase of the anti-Al-Shabaab offensive scaled up in early 2015. As main transport routes became increasingly dangerous, both humanitarian and commercial contractors suspended operations, particularly affecting Wajid and Hudur in Bakol.[13] It was noted by a number of interlocutors that the intensity of operations in Bakol, and the nature of the forces conducting them (many outside of the AMISOM concept of operations) had particularly dissuaded contractors.

8. As a result, and notwithstanding enhanced efforts to provide air support, vulnerable populations were exposed to acute food insecurity.[14] In Hudur in April 2015, one third of IDPs were assessed as reliant on one meal a day.[15] By July 2015, following the commencement of Operation Jubba Valley, Global Acute Malnutrition (GAM) rates in Hudur, were "very critical" at 32.7 per cent, with an "alarming three-fold increase" in Severe Acute Malnutrition (SAM)

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[7] Email from reliable NGO source, 1 June 2015.

[8] See, for example, a report that on 13 June 2015 Al-Shabaaab burned four donkey carts and the food they were carrying and arrested six people in connection with the incident in Caag bashir in Bulo Burte district. Email from reliable NGO source, 14 June 2015.

[9] See, for example, the report that on 26 March 2015 Al-Shabaab beheaded two businessmen and arrested three others in Doondardiir village south west of Hudur, allegedly for smuggling food to Hudur. Email from reliable NGO source, 27 March 2015.

[10] Interview with UN staff member, Nairobi, 7 July 2015.

[11] Inter-agency assessment mission report, Dinsoor, Bay region, 18 August 2015, on file with the Monitoring Group.

[12] Inter-agency assessment mission report Mission Report, Hudur, Bakool region, 29 April 2015, on file with the Monitoring Group.

[13] Interview UN staff member, Nairobi, 7 July 2015. See also UNOCHA Humanitarian Bulletin, July 2015, 20 August 2015.

[14] Since August 2014, a total of 2,650 metric tonnes of goods have been transported by humanitarian cargo plane into southern and central Somalia. The low volume is due to the restricted airfield capacity of areas in Somalia which need air access.

[15] The primary cause of the food insecurity was the Al-Shabaab blockade. See Inter-agency Mission Report, Hudur, Bakool Region, 29 April, 2015, on file with the Monitoring Group.

rates between June and July.[16] In Buloburte, six months after the change of authority, it was assessed that an estimated 8900 people were in acute food insecurity Crisis (IPC Phase 3) or Emergency (IPC phase 4) in the town.[17] By July 2015 GAM rates were at almost 25 per cent, although there had been a "significant improvement" in SAM levels from 21 per cent in June to 7.7 per cent between June in July, due to sustained humanitarian efforts.[18] In Wajid in May 2015 it was reported that the price of food and essential items had doubled in two months.[19] To supplement World Food Program (WFP) air cargo the population had been depending on food brought in by donkey cart and "human back" and sold at an unaffordable price for vulnerable households.[20] On 15 May 2015, two children reportedly died of malnutrition related conditions.

9. There was also evidence of small-scale attempts by pro-FGS forces to block the movement of goods to Al-Shabaab areas. In one incident in December 2014 in Seynilow in Bakol, for example, soldiers reportedly seized three trucks which were transporting commercial food to Al-Shabaab held areas.[21] In the wake of a series of large scale attacks on civilians in Eastern Kenya the Kenyan authorities refused some NGOs permission to transfer humanitarian supplies to southern and central Somalia across the border at Mandera. Health clinics ran out of essential supplies and one closed as a result of the impasse.[22] An airlift was eventually authorised.[23]

10. In resolution 2182 (2014) the Security Council described securing key supply routes as "imperative" in view of the "deteriorating humanitarian situation" and called on AMISOM and the SNA to give the "utmost priority" to the task.[24] Resolution 2232 (2015) reiterated this call.[25] Efforts were made in August and September to clear access routes in Bakol, Hiran and Galgadud. In addition, AMISOM provided convoy protection for bilateral aid which alleviated the pressure on some towns such as Buloburte.[26]

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[16] UNOCHA Humanitarian Bulletin, July 2015, 20 August, available at http://reliefweb.int/sites/reliefweb.int/files/resources/150820_Somalia%20Humanitarian%20Bulletin_August%20final.pdf.

[17] See Inter-agency assessment mission report, Bulo Burto, Hiran region, 23 September 2014, on file with the Monitoring Group. The town came under the control of FGS forces on 13 March 2015.

[18] UNOCHA Humanitarian Bulletin, July 2015, 20 August, http://reliefweb.int/sites/reliefweb.int/files/resources/150820_Somalia%20Humanitarian%20Bulletin_August%20final.pdf.

[19] See UN monitoring mission report, Waajid, Bakool region, 31 May 2015, on file with the Monitoring Group.

[20] See UN monitoring mission report, Waajid, Bakool region, 31 May 2015, on file with the Monitoring Group.

[21] Email, reliable NGO source, 17 December 2014.

[22] Interview NGO staff member, Nairobi, 28 August 2015.

[23] Email UN staff member, 6 September 2015.

[24] Resolution 2232 (2015) at paragraph 29.

[25] Resolution 2232 (2015) at paragraph 11.

[26] Interview with UN staff member, Nairobi, 2 September 2015.

11. In the context of the increasingly complex picture of armed activity in Somalia there is need for effective implementation of the Somalia Country Specific Humanitarian Civil-Military Coordination Guidelines, agreed at the end of 2014. Although there has been some progress, support for training of Civil-Military Cooperation (CIMIC) officers in the sectors is needed alongside broader support for a more effective CIMIC component overall.[27] At the same time, it is vital that military or 'securitisation' strategies are not the only ones pursued. Space for humanitarian actors and local communities to freely and independently engage in acceptance and negotiation access strategies needs to be created: in some areas, for example, local authorities were able to negotiate around blockades, albeit through the payment of checkpoint taxation.[28] No UN actors and increasingly few humanitarian actors negotiate access directly with Al-Shabaab.

Use of bureaucratic impediments and misuse of official power to obstruct access

12. In its 2014 report (S/2014/727), the Monitoring Group described how, with the formalisation of new layers of federal architecture, the number of bureaucratic impediments and revenue seeking efforts which complicated and sometimes prevented access had multiplied significantly. During the mandate not only did those practices intensify, but with new entities asserting legitimacy the number of authorities with which the humanitarian community was forced to negotiate also rose. The operational capability of non-governmental humanitarian organisations was particularly affected. Annex 5.2 provides an overview of the scope and impact of these practices in the context of humanitarian obstruction.

Humanitarian principles and challenges of access

13. A number of senior UN and NGO staff expressed concern to the Monitoring Group that the erosion of space for humanitarian operations to abide by humanitarian principles had particularly endangered the quality and scope of humanitarian access to populations in need during this mandate.

14. The Somalia Compact which was agreed between the FGS and international partners in 2013 firmly stated a commitment to "the humanitarian principles of humanity, neutrality, impartiality and operational independence endorsed in General Assembly resolutions 46/182 and 58/114".[29] It further asserted that the government would not interfere with "humanitarian actors' neutrality, impartiality and independence from political, economic and military processes". Since then there appears to have been a shift in the political optics. The High-Level Partnership Forum draft documents produced in 2015, for example, emphasised that "services delivered by NGOs or the private sector on behalf of the government will fall under a government-led framework

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[27] Phone interview with UN staff member, 30 August 2015.

[28] Phone interview with UN staff member, 30 August 2015.

[29] Federal Government of Somalia, The Somali Compact, text on file with Monitoring Group. The Somali Compact was validated in September 2013 in Mogadishu.

agreement", intended to "increase the ownership and visibility of government in programme design and delivery".[30] Other developments echoed this approach. Against a background of a significant decrease in humanitarian funds, some donors have encouraged humanitarians to seek support from development donors or donors with a political agenda for basic humanitarian projects, such as hospital services.[31]

15. NGOs have expressed concern that unless carefully managed, this new framework, including the proposed 'branding' of activities, could reinforce the politicisation of aid. As one donor said, "change of authority is not an argument for action".[32] In addition, especially in areas where there is lack of clear FGS control, it could put humanitarian workers in danger.[33] The rise in threats to, and attacks on, humanitarian workers during 2015 reflects the fragility of the environment: attacks on humanitarian workers came not just from Al-Shabaab but from other parties to the conflict which made assumptions about the presence and acquiesce of NGOs with Al-Shabaab's former rule.[34] Compounding the challenge are the increased numbers of armed actors taking part in the conflicts and the range of military assets apparently available to Al-Shabaab.[35] This makes the need for humanitarian distancing more acute. As one senior NGO staff member put it: "principles are also tools to allow you to work. The problem of bending the neutrality principle in a conflict zone is that it will backfire".[36]

16. More broadly NGO and UN humanitarian workers told the Monitoring Group that they believed that the decision to integrate the political and humanitarian pillars of the UN mission in Somalia at the beginning of 2014 had complicated already polarised interpretations of the humanitarian role and may have both undermined access and increased the dangers faced by humanitarian workers.[37] Some cited the increase in abductions of local NGO staff on the ground and statements by Al-Shabaab during 2014 which conflated humanitarian actors with the United

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[30] High-Level Partnership Forum, Draft document, Delivery and state building: concrete measures and way forward, 2015.

[31] For example, DEVCO as opposed to ECHO in the European system of donor support. The EU Commission's Directorate-General for International Cooperation and Development (DG DEVCO) is responsible for designing European international cooperation and development policy and delivering aid throughout the world. See https://ec.europa.eu/europeaid/general_en. ECHO is the EU Humanitarian Aid and Civil Protection Department. http://ec.europa.eu/echo/.

[32] Interview with staff of donor, Nairobi, 20 January 2015.

[33] Email from NGO staff member, 10 September 2014, reflecting the views of a group of NGOs.

[34] There were arrests of NGO staff in formerly Al-Shabaab held areas by the newly occupying security forces, on the grounds of collusion. Details on file with the Monitoring Group.

[35] Interview UN staff member, 3 September 2014.

[36] Interview with NGO staff member, Nairobi.

[37] In Resolution 2093 (2013) at paragraph 20 the Security Council requested that "by 1st January 2014 the post of Deputy Special Representative of the Secretary-General/Resident and Humanitarian Coordinator (DSRSG/RC/HC) will have been established and structurally integrated into the new United Nations Mission, which will operate alongside AMISOM".

Nations as "invaders" that "do bad things".[38] The Monitoring Group was not able, however, to identify particular incidents where a heightened threat or attack was casually linked to the new framework. Some agencies in fact reported by mid 2014 that staff on the ground had not seen any change in the security climate which could be linked to integration.[39]

17. In August 2015 a year long review of the consequences of the UN integrated mission in Somalia on humanitarian action and access to population in need was published by Action Contre la Faim (ACF). While ACF agreed that that it was difficult to disaggregate the effects of stabilization, integration and counter-terrorism policies, it did find that integration had resulted in: "a decreased focus on the public defense and application of humanitarian principles; an increased politicization and militarization of humanitarian aid and access strategies, with clear consequences for the population in need and for the humanitarian personnel; [and] a disappearance of attempts to gain access through acceptance and negotiation to rural areas of South Central Somalia, where needs are among the highest".[40]

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[38] See annex 7.1, S/2014/726. Prior to the United Nations decision to integrate its mission in January 2014, 17 NGOs providing humanitarian and development assistance in Somalia had written to the SRSG to express that: "[g]iving the political mission authority over United Nations humanitarian and development actors could create the perception (or reality) that assistance is provided based on political objectives rather than need – providing an excuse to expel agencies and also increasing security risks to beneficiaries and staff". Letter to the SRSG, undated, signed by 17 NGOs providing humanitarian and development assistance in Somalia. One INGO with some of the largest programs in Somalia withdrew its membership of the Humanitarian County Team as a result of these concerns, as it rendered the United Nations humanitarian wing, "no longer a neutral body". Interview with INGO staff member, 18 July 2014, Nairobi.

[39] Interview with INGO staff member, Nairobi, 18 July 2014.

[40] See ACF, Case study: Impact of UN integration on principled humanitarian action and access to population in need in Somalia, August 2015, on file with the Monitoring Group.

Annex 5.2: Bureaucratic impediments and misuse of official power to obstruct access

19. During the mandate the number of entities with which the humanitarian community was forced to grapple with for access multiplied as two new interim regional administrations (IRAs) came into being, alongside declarations of legitimacy and control by rival putative states claiming the same territory.[41] In 2014 for example, the United Nations (UN) recorded 76 incidents of interference by government authorities with humanitarian activities. 71 per cent of these related to bureaucratic constraints with the other 29 per cent constituting direct operational interference. By the end of the first seven months of 2015 the number of incidents had already reached 51.[42] This annex overviews some of the practices purportedly intended to regulate humanitarian action which often had the effect of obstructing and preventing it, across different layers of government. These practices not only immediately impacted operations but also exposed humanitarian operations to the perception that they had been co-opted in support of particular authorities.

The Federal level

20. There is still little coordination between Federal Government of Somalia (FGS) ministries in terms of regulation and facilitation of humanitarian operations.[43] Although the existence of multiple interlocutors is not in itself problematic, the approach of these entities, including around efforts to gather revenue, made it difficult for the humanitarian community to mount a coordinated and consistent response. A number of times, for example, duty free goods were held 'hostage' at Mogadishu port and airport as Ministry of Finance officials refused to issue tax exemptions. Meanwhile government officials from different Ministries attempted to extort payments from both non-governmental organisations (NGOs) and UN entities on various official pretexts.[44] On one occasion vital humanitarian supplies used in the treatment of severe acute malnutrition were held at port on the ground that employees at the importing NGO were not paying tax, and that an employee list had not been provided. As an alternative, payment of import tax on the goods was demanded by the Ministry for Finance. Eventually the supplies were released upon the payment of a proportional percentage tax on the import. That these are not isolated incidents but systematic was reinforced by the fact that an agent approached the

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[41] The declaration of a 'state' by ASWJ was accompanied by new directions to the humanitarian community; there were also efforts by the authorities of 'Khatumo state' to impose administrative regulations in its areas of control.

[42] Email from UN staff member, 6 September 2016.

[43] NGOs are obliged to negotiate with a variety of Ministries, such as the Ministry of Labor around employee issues, with the Ministry of Finance for duty free import of humanitarian supplies and with line Ministries around project implementation. As part of the effort to leverage humanitarian engagement in support of state-building, some donors are now requiring agencies to work with or agree memoranda of understanding with Ministries relevant to their areas of input. In addition to concerns about maintenance of independence there are also worries that additional revenue will be sought to support such engagements. Interview, NGO staff members, Nairobi, 28 August 2015.

[44] Interview with NGO expert 24 August 205; interview with UN staff member, Nairobi, 6 September 2014.

organization and offered to negotiate with the authorities to ensure that its next shipment would be treated as tax exempt—for a fee.[45]

21. In mid 2015 the Ministry for Labour asked all NGOs working in Benadir to provide them with a list of all staff declaring that each staff member would be required to pay a 20 USD fee for an ID card from the Ministry.[46] Not only did this raise safety and security questions for individual staff, it also appeared to have no legal basis. A number of organisations which did not comply received visits from the National Intelligence and Security Agency (NISA) and the Ministry of Labour, asking them to provide staff lists or risk being closed. Those who questioned the scheme were told that a draft law was been being developed which provided a framework for the scheme, but that it had not yet been approved by Parliament.[47]

22. Although an NGO Bill is still in draft form, national organizational registration is required through the Ministry of the Interior and Federalism upon the payment of fees of 1000 USD for an international organisation and 500 USD for a local organisation.[48] The Ministry asserts that federal level registration is all that is required, but, as discussed below, this is ignored at the regional level. The attempt to appoint regional focal points to help manage the impact of interaction between federal and regional regulation in August 2014 has had little effect.

Regional authorities

23. The replication of central government bureaucracy at the regional level resulted in the replication and multiplication of practices related to the regulation and control of humanitarian operations, some of which amounted to obstruction.

24. Echoing the approach of Somaliland and Puntland, the new IRAs also attempted to demand payment of registration fees by humanitarian organisations.[49] Instructions from the Interim Jubba Administration (IJA) Ministry of Planning and International Relations and Humanitarian Programs, for example, advise that payment of an annual fee of 1000 USD for an INGO and 500 USD for an NGO for registration—a sum equal to the federal requirement.[50] If these practices spread, an NGO intending to operate across the country could find itself forced to pay

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[45] Interview with NGO staff member, Nairobi, 28 August 2015.

[46] Email from reliable NGO source, 10 September 2015; interview with NGO staff member, Nairobi, 28 August 2015.

[47] Despite discussions there is no federal NGO law yet in place.

[48] The certificate of registration received is valid for one year and costs 1000 USD for INGO and 500 USD for an NGO. A variety of documents must constitute the application including proof of donor funds received, *curriculum vitae* of national and international staff (in Somalia) and justification for the use of international staff.

[49] As noted in the Monitoring Group's 2014 report (S/2014/726) registration is also required in Puntland and Somaliland.

[50] It is not clear in practice whether if this fee is only being applied to newly registering organisations. Phone interview, former government official, IJA administration, 29 August 2015.

considerable fees in registration alone. There was also evidence that registration and taxation was being demanded at local district levels throughout southern and central Somalia, and in Puntland.[51]

25. Amidst competing authorities, the experience of NGOs operating under IJA claimed territory was particularly confusing. Although a Non-governmental Organizations Coordination Act (2015) was developed, different approaches to regulation both in Kismayo and in the districts made adherence difficult.[52] In Dhobley, for two days in March 2015, for example, field activities by local NGOs had to be suspended when the local administration ordered that only vehicles hired from it could be used. Five vehicles were subsequently impounded.[53] In Luq in Gedo, a 30 per cent tax demand was issued to local NGOs by the local District Commissioner in August 2015 and three organisations were forced to temporarily suspend operations.[54] Although in most of these situations the matter was ultimately resolved either through strong local representations or support from the UN, it made for a very difficult environment.

26. The final form of regulation of humanitarian activity in the Interim South West Administration (ISWA) was under discussion at time of writing. Although a letter from the ISWA Ministry for Humanitarian and Disability Affairs on 12 April 2015 invited "all humanitarian agencies [in] ISWA regions" to "come forward for registration between 14th and 30th April",[55] the authorities subsequently entered into dialogue with NGOs on how registration will operate, including on the question of fees.[56] How the registration question is managed will also have implications for other issues such as work permits for foreign staff members and staff taxation.

27. Although as noted in the Monitoring Group's 2014 report (S/2014/726) Somaliland presented one of the least obstructive environments for humanitarian operations, increased political and security instability provided the backdrop to some new challenges.[57] In terms of bureaucratic constraints, efforts by local administrative entities to exert control on operation and contracting were the main obstacles encountered.[58] In both Somaliland and Puntland, issues

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[51] Email from NGO staff member, 10 September 2015; interview with senior INGO staff member, Nairobi, 25 February 2015.

[52] See Non-governmental Organizations Coordination Act (2015), Jubbaland State of Somalia, No 1 of 2015. Date of assent 14 April 2015.

[53] Email from UN staff member, 18 March 2015. International and UN entities were not affected.

[54] Interview with NGO staff member, Nairobi, 26 August 2015.

[55] Letter on file with Monitoring Group.

[56] Phone interview with NGO expert, 24 August 2015; Interview with NGO 28 August 2015. See, draft registration certificate on file with the Monitoring Group.

[57] There were also public statements and official discussions raising questions about "foreign workers" which added to the pressure.

[58] In late July 2015 for example it was reported that the Governor of Awdal had decreed that it was obligatory for contracts such as for rental of vehicles etc., to be issued to local companies and that the local administration must be present during the bidding process. Email from reliable NGO source, 27 July 2015.

around the taxation of local UN staff saw the UN ultimately being constrained to share lists of its national employees with local authorities in June 2015.

28. In Puntland the range of obstructive practices described by the Monitoring Group in its 2014 report (S/2014/727) continued to be experienced, including layers of registration at district level. Nevertheless, both UN agencies and NGOs reported during the mandate that there was greater willingness to discuss and negotiate these impediments. In terms of clarifying the framework, an NGO Bill is under discussion and NGOs have been able to submit views on the text.[59] At the same time, efforts by the Government to direct the involvement of the Puntland Tender Board in the award of contracts worth over 5000 USD are causing significant tension.[60] The Government asserts that engagement is necessary to prevent corruption in the granting of contracts. NGOs claim that involving the Tender Board is unlikely to have that effect. In addition, it is unclear that a public procurement law, intended to govern the award of public contracts, can apply to NGOs which are private entities. The UN has also been embroiled in this issue. In January 2015 a letter to the UN from the Puntland Minister for Finance and Minister for Planning and International Cooperation advised, *inter alia*, that income tax would be due from rental properties and vehicles leased to or hired by the UN".[61] The letter also declared that "a registration tax" would be levied on "vehicle hire contract by the UN before the contractual amount is paid". It also purported to order that "contracts awarded and funded by the UN" would be required to pay "registration tax of 2.5% on total gross contract value". The National Tender Board of Puntland would also collect "a service charge of 0.5% on total gross contract value". Beyond ensuring that contractors present evidence of tax compliance the humanitarian community has attempted to resist involvement of the Tender Board. At the time of writing the situation remained at a stalemate.[62]

29. Finally, although not constituting deliberate humanitarian obstruction, in the absence of funding being found for construction of a parallel runway, the planned closure of Garowe airport to facilitate a major renovation funded by the Government of Kuwait was expected to have a huge impact on UN access from the beginning of October 2015.

Other authorities

30. It was not just the formally recognised IRAs and Al-Shabaab which attempted to use administrative regulation and 'taxation' to leverage the resources of the humanitarian community

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[59] Phone interview UN staff member, Nairobi, 31 August 2015.

[60] Letter to the humanitarian community from the Puntland Tender Board, dated 30 July 2015. The letter referenced a Presidential Decree of 25 July 2015, in turn referring to Law No 11, the Puntland Public Procurement Law. On file with the Monitoring Group.

[61] Letter from the Minister for Finance and Minister for Planning and International Cooperation to the Resident and Humanitarian Coordinator, 17 January 2015, on file with the Monitoring Group.

[62] Phone interview with UN staff member, Hargeisa, 10 September 2015.

for their own purposes. On 22 March 2015, for example, after the take over of Guriel by Ahlu Sunna wal Jama'a (ASWJ), the "Office of Humanitarian Assistant" of the Guriel District Commissioner issued a statement entitled, "Conduct of International Organisations and Local NGOs operating in Guriel".[63] Among the instructions given were that international and local NGOs should "register from the local municipality office", pay "registration fees" and obtain an "acceptance letter". Agencies were also purportedly required to submit "the number of staff, number of houses and rented vehicles they are going to hire and all necessary needs", in order that, "the government fairly allocate the resources". It is understood that the matter was resolved locally. NGOs did not report that they acceded to the payment request, but did register.[64] In June 2015 with the declaration of a parallel state in Dhusamareb. ASWJ authorities also told the humanitarian community that they were the new authority and called on them to register with them.[65]

31. In Sool and Sanaag, political and ideologically grounded access impediments rooted in contestation of authority remained a challenge. As noted in the Monitoring Group's 2014 report (S/2014/727) there was very little humanitarian access to the area, with UN standard operating procedures preventing travel of UN staff and restricting the forms of aid which could be transferred. In November 2014 approximately 300 tons of food aid donated from the Turkish Government intended for Salax Dheer were diverted to Garowe in the wake of disagreement between pro-Puntland politicians who had secured the delivery and the self-declared Khatumo state administration.[66] Against the background of intensifying armed engagement between the parties, Khatumo officials increasingly attempted to control revenues in its areas of control including those of the humanitarian community.[67] A statement by the Minister of the Interior of Khatumo state in March 2015, for example, warned that the administration "would not be responsible for the security of agencies coming from Puntland or Somaliland and that NGOs should contact the administration for their presence to be recorded".[68]

32. As the number of regional entities increases, and both they and parallel authorities jockey for control of power, resources and political legitimacy, humanitarian organisations will come under greater pressure. In the short term, it is vital that the humanitarian community takes a coordinated approach to challenging efforts by regional and local authorities to 'regulate' access where such purported 'regulation' in fact amounts to co-option by extortion/diversion and

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[63] Office of Humanitarian Assistant of the Guriel District Commissioner, statement, "Conduct of International Organisations and Local NGOs operating in Guriel", on file with the Monitoring Group.

[64] It is understood that the registration fee demanded was 200 USD.

[65] Interview with UN staff member, Nairobi, 31 August 2015.

[66] Email from reliable NGO source, 26 November 2014. Interview with senior member of Khatumo community, London, 12 March 2015.

[67] In April 2015, for example, Khatumo authorities in Buhodle issue a statement announcing the introduction of new vehicle number plates and warning that vehicles without the new plates would be confiscated. Email from reliable NGO source, 14 April 2015.

[68] Email from reliable NGO source, 29 March 2015.

obstruction of access. This should include agreement on ‘lines in the sand’. In the absence of such collaboration, the ‘divide, threaten and control’ strategy of many entities, will continue to suck scarce financial and human resources. In the longer term, coordinated authority over humanitarian access throughout Somalia is needed through a transparent regulatory framework which clarifies the requirements for operations and supports independent and impartial humanitarian action.

Annex 5.3: Diversion and misappropriation of humanitarian assistance

34. This annex details particular categories of perpetrator, and particular areas of diversion which contributed to the obstruction of humanitarian assistance during the mandate. Developments in the approaches taken by the humanitarian community to prevent and respond to diversion and misappropriation are also described.

Al-Shabaab

35. In areas of its direct control Al-Shabaab continued to systematically divert humanitarian aid through registration fees, "taxation" of projects and non-governmental organisation (NGO) staff, and control of sub-contracting.[69] As the Monitoring Group noted in its 2014 report (S/2014/276), the contraction of Al-Shabaab territory during 2014 added to the difficulties faced by humanitarian entities on the ground in resisting the practice. This pressure increased during 2015. Agencies operating in areas still fully controlled by Al-Shabaab were under greater pressure to contribute to a resource-stretched campaign. In areas officially 'recovered' from Al-Shabaab, the group continued to extort, facilitated by mobile money and other forms of remittance services. The complexity and oscillations of authority noted in by the Monitoring Group in 2014 (S/2014/276) as having emerged in recovered areas during 2013 and 2014 only deepened during the current mandate. Al-Shabaab was adept at exploiting these security and political vulnerabilities.

36. In some Al-Shabaab controlled areas there were indications that the Amniyat was superseding local responsibility and authority to negotiate humanitarian space (including management of taxation) and overruling previous agreements. If this indeed is a new development it would further contribute to expanding the distance between humanitarian actors, Al-Shabaab and communities on the ground. It may also constitute a new threat to the safety and viability of humanitarian activities in Somalia.

37. Operating in areas directly, and sometimes, indirectly controlled by Al-Shabaab presented a huge challenge to the humanitarian community not only programmatically, but also with respect to risk management and donor accountability. Despite the 'humanitarian carve out' extended by

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[69] Due to the highly dangerous context for humanitarian operations in Al-Shabaab areas sourcing for this section is not provided.

the Security Council in paragraph 41 of resolution 2182 (2104), the impact of national and other international sanctions regimes tended to undermine its effectiveness.[70]

Diversion by regional and local administrations

38. In its 2014 report (S/2014/727), the Monitoring Group described how the process of federalisation had increased the layers of bureaucratic impediments which both complicated and prevented access. Those holding power saw humanitarian streams of finance as a source of income. In some areas demands for access to humanitarian resources—whether directly through 'taxation' or additional 'registration' of organisations, projects, or contracts, or indirectly, through efforts to control tendering or gather information on staffing—made access negotiations and operations more complex, and, in some cases, impossible.[71] In Gedo, for example, and during August 2015 alone, three local NGOs were forced to close temporarily as a result of repeated unacceptable demands for taxation.[72] The situation was particularly acute in areas newly 'recovered' from Al-Shabaab authority. Annex 5.2 on bureaucratic constraints and misuse of official authority offers a more detailed overview of these practices.

39. Regional authorities also attempted to misuse their authority to wield power over donor decision-making on funding and grant making and derive a benefit from humanitarian inputs. In one case documented by the Group, for example, it was implied strongly by the administration that a funder would find operating in the state extremely difficult if funding was not granted to a particular NGO with which a senior advisor to the administration had close connections.[73]

40. Regional administration and security officials also directly diverted humanitarian inputs. In one case reported to the Monitoring Group local administration officials and regional security forces threatened IDPs not to occupy shelters which had been constructed for them, later

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[70] Paragraph 41 reaffirmed that "until 30 October 2015 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded NGOs participating in the United Nations Consolidated Appeal for Somalia". The Security Council also reduced the burden of reporting on the UN Emergency Relief Coordinator, requesting only one report on "the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia" prior to the consideration of mandate renewal.

[71] Interview with local NGO leader, Nairobi 17 December 2014. For more on bureaucratic constraints on access see annex 5.2.

[72] Interview with reliable NGO source, Nairobi, 26 August 2015.

[73] Interview with former administration official, Nairobi, 7 July 2015. Misuse of humanitarian operations and inputs, including through diversion for private gain has been previously documented by the Monitoring Group in relation to this senior advisor.

dismantling the structures and sharing out the materials.[74] In another instance security force personnel took control of wells dug for the community and demanded payment for access to water. Evictions were also strategically arranged to take place just after inputs by humanitarian agencies had rendered the land occupied by the IDPs more valuable. Local businessmen connected with the administration then took possession.

Diversion of food aid, including emergency aid from bilateral donors

41. The arrival into Somalia's ports of large amounts of food and non-food emergency aid from bilateral donors created a ripe context for diversion. The Monitoring Group received a series of allegations from credible sources that some of this aid was misappropriated at the point of entry and either sold directly in the markets or exchanged in kind. Aid was used, for example, to pay members of the Regional Assembly and officials in one interim regional administration (IRA).[75] Meanwhile, the FGS also began to investigate food aid diversion by Government officials, particularly through the efforts of the Office of the Attorney General (AG). Seven people were arrested further to the AG's investigations into allegations of diversion of Turkish food aid in Buloburte, including senior administration officials.[76]

42. The Monitoring Group received extensive documentation from the Ministry for Interior and Federalism and from donor states on the delivery and distribution of emergency bilateral aid at the end of the mandate. Investigations are ongoing. Meanwhile, in the light of its preliminary findings, the Group urges bilateral donors to require greater levels of accountability from both the Somali federal or regional entity responsible for receiving and distributing the aid, and the implementing NGO. It would also be important for donors to consider providing support for the process of distribution and monitoring. Donors frequently do not arrange for distribution costs or other in-kind assistance to support distribution. Although lack of resources for distribution is not the cause of aid diversion it can be considered an enabling factor.

Diversion and non-governmental organisations

43. As noted above diversion occurs at all points of the aid distribution cycle. During the last three years diversion by local NGOs has been the main focus of a number of United Nations (UN) investigative bodies.[77] Similar patterns, scale and methodologies as those reported by the Monitoring Group in 2014 (S/2014/726) continued to be identified in cases of systematic diversion shared with the Monitoring Group this mandate.[78] With respect to the latter these

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[74] Email from former staff member of NGO, 31 August 2015. Full details of these incidents are on file with the Monitoring Group but are not disclosed for reasons of the safety and security of interlocutors.

[75] Interview with former official, Interim Juba Administration, location undisclosed, 20 June 2014.

[76] Interview with FGS Attorney General, Nairobi, 2 July 2015.

[77] See, for example, strictly confidential annex 7.6, S/2014/726 S/2014/727.

[78] It should be noted that the majority of the cases under investigation relate to a similar time period. Interview with UN staff member, Nairobi, 30 January 2015.

include the manufacture of false documentation—whether through invention of false vendors or collusion—false reporting and absence of implementation.

44. In terms of scale, in one project implemented by an international organisation, 100 per cent of costs incurred were found to be unaccounted for or unsubstantiated; other projects saw a rate of 80 per cent.[79] Although local NGOs have tended to be the focus of investigations, this year saw the beginning of a number of enquires into allegations of diversion or misappropriation involving international NGOs.[80] Separate to these findings the Group received a variety of testimonies throughout the year from staff of local NGOs describing how routine diversion was in some operations. One former staff member of a local NGO for example described how only 5 per cent of hygiene kits in a Water, Sanitation and Hygiene (WASH) project were given to the intended beneficiaries and how other inputs were regularly redirected to the local security forces.[81]

45. Jurisdictional tensions between accountability and investigative entities in the UN system can impede investigations. Going forward there will be an increasingly small number of local and international NGOs which enjoy support from the international community, resulting in multiple entities funding the same NGO or private contractor. There is a need for a multi-agency approach to investigations within the UN and greater openness to collaborating on enquires and sharing findings. Although cross notification of investigations does occur at the moment there is duplication in investigative activities which sometimes leads to interference with evidence and greater opportunity for the target of the investigation to conceal information.

Links between conflict and the diversion or manipulation of humanitarian assistance

46. In resolution 2111 (2013) the Security Council condemned "any politicization of humanitarian assistance, misuse or misappropriation" and called upon the UN and Member States to "take all feasible steps to mitigate these […] practices in Somalia".[82] A key characteristic of Somalia's humanitarian aid model, however, is that NGOs or particular branches of INGOs or UN agencies are generally associated with—and viewed as a source of income for—particular communities and clan networks. Allegations that aid inputs are used to fund conflicts or political positions or campaigns go hand and hand with this reality.

47. Over the last two years, as areas have been 'recovered' from Al-Shabaab control, clan conflicts and political violence, frequently overlaid with involvement of government administration and security entities, have escalated. Claims that the place and power of

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[79] Interview with UN staff member, Nairobi, 20 August 2015; interview with UN staff member, Nairobi, 26 February 2015.

[80] Interview with UN staff member, Nairobi, 14 August 2015.

[81] Email from NGO staff member, 31 August 2015.

[82] Resolution 2111 (2013) at paragraph 11.

humanitarian organisations in local communities have been used and manipulated by parties to these conflicts have increased. During the mandate the Monitoring Group received credible information that humanitarian actors abused humanitarian principles and misused humanitarian inputs in the pursuit of clan dominance, including through use of violence, in a number of places, but in particular in Lower Shabelle and in Hiran.[83] In some communities, the allegiance of particular NGOs with particular militia/SNA units and direct funding of the latter operations have been open secrets in the humanitarian community and indeed accepted as the price of access in highly militarised and polarised contexts.[84]

48. At the same time, UN and other entities are increasingly asking questions about clan make-up and networks of current and potential partners.[85] It may be that single clan affiliated organizations are appropriate interlocutors in some circumstances. The majority of those consulted by the Monitoring Group were of the view, however, that clan capture of an NGO's operations could be best mitigated by insisting on mixed clan management in NGOs.

49. Assessment of how power dynamics in a community, including clan and other socio-economic dynamics, are engaged with and understood, prior to deciding to move forward with a particular partner or input, should be more regularly conducted. In making such assessments, however, it is essential that channels other than traditional interlocutors be considered. Powerful and convincing gatekeepers can prevent even diligent humanitarian actors from fully comprehending the context, especially in situations where victim and potential beneficiary communities are severely marginalized, and often fearful. Efforts should be made therefore to reach out to traditionally excluded communities to ensure their voices are heard and that they can function as partners in humanitarian activity.[86]

50. Special capacity building efforts may need to be made in this regard. Communities which have had historically very limited dialogue with the international community may find it difficult to provide the 'right' inputs in the 'right' form, whether in terms of needs assessments or project proposals. There will be significant resistance from those who currently control the Somali aid

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[83] Annex 6.3.a and strictly confidential annex 6.3.b describes some of the allegations received with respect to the connection between access to, and the perceptions of access to, humanitarian assistance and the conduct of attacks on on the *Surre/Dir* community in Hiran.

[84] Specific and credible allegations were received during the current and previous mandate relating to the misappropriation of inputs by clan aligned-NGOs in Lower Shabelle, Hiran and Jubbaland. Multiple interviews with NGO, INGO and diplomatic staff, 2014 and 2015.

[85] Interviews UN staff members, Nairobi and Somalia, throughout the mandate. Some in the humanitarian community were reluctant to view partners – or even staff – as coming with a clan agenda which would automatically impose on humanitarian operations.

[86] The 100 % coalition is one important initiative in this regard. In September 2014 a group of representatives self-described as the "Bajuni, Barawe, Banadiri, Bantu, and Nilot communities" joined together to create a coalition to engage more effectively with the humanitarian and development community. In January 2015 the Coalition members named itself, *The 100% Coverage Coalition, rebuilding Somalia for Everyone, Everywhere for Everybody*.

enterprise, similar to the dangers associated with challenging hegemonies in any area of Somali business.[87] Defying one of the foundations of—and in some case even the *raison d'être* for—NGO operations in Somalia will be difficult. It is a long-term project involving sustained civic education and inter-community dialogue.[88]

Measures to enhance compliance

51. The humanitarian aid community continued to pursue the positive steps identified by the Monitoring Group in its 2014 report (S/2014/276) both with respect to acknowledging the scale of diversion, and continuing to develop the effectiveness of risk management mechanisms.

52. Within the UN Country Team, the Risk Working Group facilitated exchange of information and the development of common standards and procedures to mitigate risk and respond to diversion.[89] Reflecting previous Monitoring Group recommendations, in January 2015 an NGO focal point was appointed to the UN Risk Management Unit (RMU), setting the stage for enhanced cooperation and information sharing between UN entities and the NGO humanitarian community. Among the other key developments since the Monitoring Group's last report were:

(a) agreement on standards on information collection (UN Minimum Information Collection Standards);[90]

(b) the adoption of a Common Working Agreement on Risk Management by the UN Country Team;[91]

(c) initiation of a Civil Servant and Ministry Payment Tracking system[92] and increased use of the Contract Information Management System (CIMS) databases with contracts of approximately USD 3.8 billion now recorded with information on risk occurrences.

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[87] The Monitoring Group has documented threats received by groups perceived as "minorities" who have attempted to seek access to funding sources, including engaging with the UN humanitarian cluster system. Interview references.

[88] See, *inter alia*, interview with senior UN staff, Nairobi, 14 August 2015.

[89] The Risk Working Group is a cross-agency risk management working group (RWG) was convened under the Office of the Resident Coordinator/Humanitarian Coordinator which was established in May 2014. It comprises the Risk Management Unit (RMU) and Risk Focal Points from the United Nations Country Team (UNCT).

[90] The standards specify the information and documentation that each UN entity should collect from prospective partners to inform the decision to engage (or not) with such partners.

[91] The Agreement specifies the minimum investments that each UN entity operating in Somalia must make into the collective risk management system: it covers commitments in the areas of information sharing, the development of collective approaches/tools, and communication protocols with external partners. UN Risk Management System in Somalia: Working Agreement, copy on file with the Monitoring Group.

[92] This system allows the UN to record payment to individual civil servant and ministries in order to determine duplication and diversion, and to monitor adherence to Somalia Civil Servant Salary Scale.

53. More broadly there was enhanced, although uneven, collaboration between various UN analytic units and across functions –political, security and programmatic—to share information on persons of interest, context and networks.[93] The RMU also convened a regular Multi Party Risk Management Forum, which brought together the UN, the World Bank, donors and NGOs in a strategic dialogue on issues such as fraud management, capacity assessments, and collective solutions.

54. To some extent, more conscious engagement with the realities of diversion in Somalia and improved risk management efforts are minimising losses. Against the background of an overall diminishing aid budget, however, increasingly risk averse donors, coupled with increased bureaucracy and administration, are creating unintended consequences whether in terms of costs or program focus.[94] In this regard, the Deputy Special Representative of the Secretary-General/Resident Coordinator/Humanitarian Coordinator initiated a 'structured dialogue' with international partners which attempted to parse out the 'cost of delivery' in Somalia. The dialogue was designed "to bridge the gap between level of ambition and discourse" with respect to the year of "delivery" and the levels of investment needed to achieve this, including in the context of risk management.[95]

55. Finally, with increased focus on risk management, monitoring and due diligence, third party monitors and external auditors have become an increasing part of the humanitarian aid landscape, adding significantly to program costs.[96] Although this new layer of accountability is welcome, there is a danger that they in turn may be co-opted by the pervasive elements of the system.[97]

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[93] Keeping track of the network of individuals involved in diversion or other misuse of aid and who have the skills and capacities to create and run NGOs with an 'acceptable face' for the international community but who move between entities is important. When one NGO is suspended from partnership it is not unusual for the same networks of control to reproduce under a new name. A mechanism for pooling and cross-referencing connections and networks would be extremely helpful in understanding the context within which NGOs emerge and retreat – and be invaluable in understanding risk.

[94] Interview with NGO staff member, Nairobi, 28 January 2015.

[95] Email from UN staff member, 9 September 2014.

[96] Significant amounts of money are now being spent by UN agencies on the work of third party monitors and special audits, sometimes with respect to the same entities or areas on the ground. Although some sharing of information is occurring through the Risk Working Group a more formal mechanism for sharing information– alongside a mechanism for cost sharing – could be considered.

[97] The Monitoring Group is currently investigating a number of credible allegations in this regard.

Annex 6

Violations of international law involving the targeting of civilians

Annex 6.1 Violations of international law involving the targeting of civilians[1]

1. This annex provides an overview of key areas of concern and investigations conducted by the Monitoring Group with respect to responsibility for violations of international law involving the targeting of civilians during the mandate.

Al-Shabaab

2. Although the two anti-Al-Shabaab offensives which got underway during the mandate period significantly reduced the territory officially held by the group, they also forced a change in tactics and operations both inside and outside of its areas of control. This had a significant impact on civilians, intensifying trends identified by the Monitoring Group in 2014 (S/2014/726). Greater numbers of civilians were affected by Al-Shabaab direct attacks, including across the border in Kenya where civilians have been the group's primary targets.[2] One assessment of available data shows that Al-Shabaab almost doubled its share of responsibility for overall violence against civilians in 2014.[3]

3. Suicide attacks on civilian targets in urban areas, particularly hotels and public institutions, resulted in significant causalities.[4] Although the expected peak of annual violence by Al-Shabaab during Ramadan did not occur, eleven civilians were killed at least 20 injured in Mogadishu alone during the period.[5] At the end of July 2015 Al-Shabaab again warned civilians to stay away from Government and United Nations (UN) facilities and from hotels.[6] Violence meted out by Al-Shabaab in its policing of blockades on towns where there had been changes of authority saw arrests, killings and destruction of property.[7]

4. In the context of the anti-Al-Shabaab military offensive AMISOM, the Somali National Army (SNA) and its partners were often overstretched and forced to relinquish captured areas. Al-Shabaab subsequently committed violent reprisals on the civilian population perceived to have acquiesced in the transfer of power. In Qoryoley in Lower Shabelle, for example, the

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[1] The Monitoring group is required, *inter alia*, to report on "violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement" (Resolution 2093 (2013), paragraph 43 (a)), in addition to those "being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law" (UN Resolution 2093 (2013) paragraph 43 (d)).

[2] For more on Al-Shabaab's attacks in Kenya see annex 4.2.

[3] Analysis produced by the Armed Conflict Location and Event Data Project (ACLED) for the Monitoring Group, February 2015.

[4] On 26 July 2015, for example, a truck laden with explosives detonated outside the Jazeera Palace Hotel, killing fifteen people, including two UN third-party contractors, and injuring many more. The blast caused structural damage to the hotel and nearby buildings, including three UN compounds. See annex 4.1 for more details of this attack.

[5] Email from UN staff member, 9 September 2015.

[6] Statement by Sheikh Ali Mohamoud Rage aka Ali Dheere, 26 July 2015.

[7] For more on Al-Shabaab blockades see annex 5.1.

Monitoring Group received testimony of how the withdrawal of the AU Mission in Somalia (AMISOM) after four days of occupation, saw killings and torture of civilians, with bodies "hung up on trees" as a warning to "collaborators".[8] Many fled the area.[9] Similar incidents occurred elsewhere, including in Hiran and Gedo.[10]

The situation in Al-Shabaab controlled areas

5. Al-Shabaab imposed violent punishments and severe restriction of rights on civilians still residing it its areas of control. Extrajudicial killings, torture, detention—for purposes of extortion and punishment—and denial of life-saving assistance were among the tactics deployed to both maintain its grip on the population and generate resources for an intensified military campaign. Execution of spies was a frequent practice.[11] Annex 6.2.a and strictly confidential annex 6.2.b describe commission of violations of international law by Al-Shabaab against members of the *Bantu/Wagosha* community in the Juba Valley.

Federal Government of Somalia (FGS) security forces

6. The conduct of extrajudicial executions were among the allegations received by the Monitoring Group with respect to FGS security forces, against the background of huge operational and command challenges, including non payments of salaries and stipends.[12]

7. As the Monitoring Group described in its 2014 report (S/2014/726), personnel of the SNA – and sometimes the Somali Police Force (SPF), alongside assets of the security forces, including vehicles, weapons and ammunition, were also deployed in attacks on civilian areas in pursuit of clan agendas or resources. During the current mandate the Monitoring Group examined allegations with respect to specific cases in Hiran and Lower Shabelle. Annex 6.3.a and strictly confidential annex 6.3.b contain the Monitoring Group's findings with respect to allegations of the commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, between December 2013 and June 2015.

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[8] Telephone interview with Somali activist with family from the area who had spoken to residents, 17 August 2015. Dar Salaam and Mubarak were particularly affected.

[9] Informal submission by the 100% coalition to the Monitoring Group, August 2015, providing details of displacement of households in fourteen villages in the area. Some of the displaced went to the Badbaado 1 camp in Mogadishu and others to Ceel Jaale near Merka.

[10] It was reported that at least 13 people were arrested in the wake of Ethiopian National Defence Forces (ENDF)F/SNA pull out from areas around Halgan in Hiran in mid August 2015. See Shabelle News, Al Shabaab details 13 people over coalition forces links, 18 August 2015 at. http://shabellenews.com/?p=12188; Email from reliable NGO source, 19 August 2015.

[11] On 4 September 2015, for example, four men were publically executed by firing squad in Bu'ale town in Middle Juba, accused of spying for FGS forces. Four others were transferred to prison in Jilib. Email from reliable NGO source, 5 September 2015.

[12] See, for example, a report that on 18 August 2015 SNA soldiers executed an Al-Shabaab member known as Kobyere some time after his capture from Kulunjerer in Wajid district. Email from reliable NGO source, 19 August 2015. For more on non-payment of SNA salaries see strictly confidential annex 3.1.

Lower Shabelle

8. In some areas, the complexity of interaction and engagement between clan militia, the SNA and Al-Shabaab both on the ground and in local perception created a highly uncertain environment, including in terms of attribution of responsibility for violations. There was evidence that Al Shabaab (both in itself, and in terms of the threat it represents) was leveraged, and in turn was leveraged by, those progressing clan conflict for broader political and resource goals. The Monitoring Group particularly examined two such incidents during the mandate.

9. In Lower Shabelle, for example, the Monitoring Group continues to investigate individual responsibility for a series of attacks on civilians in Qoryoley district, in particular on the villages of Buulo Sheikh, Hadoman and Farhano in early January, February and March 2015.[13] Conducted by a combination of SNA personnel (with SNA assets), clan militia and elements of Al-Shabaab, the attacks demonstrate the complexity of alliances and cross cutting interests emerging between Somalia's conflict parties at the local level. The violations unfolded against the backdrop of an ongoing conflict between the *Salaax* militia and *Hawiye* (primarily *Haber Gedir*, but also *Hawadle* and *Murosade*) militia in the area and the broader conflict with Al-Shabaab. The *Salaax* militia are a defensive militia created by the *Bantu* community and led by a *Bantu Digil-Mirifle/Dube*, Shiekh Salaax.[14]

10. Credible information received by the Monitoring Group indicates that the attack of 3 January 2015 on Buulo Sheikh and Hadoman resulted in the extrajudicial killing of at least five civilians, the rape of four women and the torture of three young men. Hostages were taken but later released. Many civilians fled their homes. This pattern of conduct was repeated in the subsequent attacks carried out later in January, February and March 2015. One of the characteristics of these combined forces attacks was the taking of hostages and their transfer to Al-Shabaab custody. One hostage captured in an attack on Hadoman village and handed over to

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[13] Information on the attacks was gathered from NGO staff members, individuals with knowledge of the conflict cycle in the region, and UN staff members between March and early September 2015. Interviews with local elders in two villages particularly affected by the attacks were also conducted on 5 September 2015 on behalf of the Monitoring Group. Email from interlocutor of the Monitoring Group, 6 September 2015. The names of some of the victims named in this account are on file with the Monitoring Group.

[14] The mission of the group is avowedly to defend *Bantu* communities of various clan allegiance (particular *Digil-Mirifle* and *Biomaal*) which have disproportionately suffered in the context of historical and current land-grabbing in the area and from attacks on civilians, primarily killings and sexual violence by Somali security forces and *Haber Gedir* militia. In furtherance of these goals the militia has taken revenge on particular individuals who it views as having violently expropriated land. It also conducted a series of attacks aimed at undermining the viability of those farms which the community asserts were unjustly taken from them: this has included threats to Bantu who chose to work on such farms. Information on the Salaax militia was gleaned from multiple interviews with local NGO activists, government officials, and regional intelligence sources, March to September 2015. Eleven members of the Salaax militia were arrested in May 2015 in unusual circumstances which confirm some of the complex alliances which are emerging the area, complicating analysis of the violence and also, arguably, AMSIOM's mission in relation to Al-Shabaab. See Strictly Confidential annex 6.1.1 which describes the circumstances of the arrests.

Al-Shabaab was subsequently beheaded. A large-scale hostage-taking incident confirmed from different sources involved the kidnap of 30 *Bantu* community members from outside of a mosque in Bandar village on 20 March 2015, and their transfer to Al-Shabaab's Donburale village base. Community outcry subsequently forced the release of 25 or 27 of the hostages. At the time of writing, the fate of the remaining hostages is not known.[15]

11. The killing of then District Commissioner (DC) of Janale, Garad Ibrahim Sid Ali, in early August, also occurred in unclear circumstances. A *Biomaal Bantu* recently returned from diaspora, the DC was particularly renowned for his assistance to *Biomaal* and *Bantu* farmers in the area, including with respect to resisting pressure to sell or relinquish land in the context of ongoing inter-clan conflict in the area. The killing of the DC on 3 August 2015 at his home, alongside his colleagues Abdule Barre and Hassan Abdille, was reported widely as attributable to Al-Shabaab.[16] The Monitoring Group's enquiries, including in interviews with the DC's family and in accounts received of the circumstances of the killing itself, suggest that although the particular individuals who carried out the attack were indeed affiliated with Al-Shabaab[17], the motivation related to the ongoing conflict over land ownership and control in the area.[18] As one local activist described it: "Al-Shabaab did it, but he was stopping Hawiye businesses".[19]

Interim Regional Administration forces

12. The Monitoring Group also received allegations against regional security forces outside the control of the FGS. In this regard, the unlawful use of force attributed to the forces of the Interim Jubaa administration (IJA), including detentions, unlawful killings and torture, were the most frequently alleged. The most common allegation from clan representatives, non-governmental organisation (NGO) staff members and members of the government was of assassinations of members of particular clans not allied to the government structure (particularly *Bantu*,[20] *Adjuran* and *Marehan*), often disguised as Al-Shabaab killings.[21]

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[15] Interview with expert with knowledge of conflict cycles in Lower Shabelle, Nairobi, 25 March 2015.

[16] See, for example, Garowe on line, Janale District Commissioner killed in raid, 4 August 2015, available at http://www.garoweonline.com/page/show/post/3283/somalia-janale-district-commissioner-killed-in-raid.

[17] Names of some of the alleged attackers were provided to the Monitoring Group.

[18] For more on the background to this context see annex 3.2, S/2014/726 on threats to peace and security in Lower and Middle Shabelle.

[19] Interview with Somali activist with knowledge of the area, Nairobi, 27 August 2015; interviews with Somali NGO staff member, Nairobi, 6 September 2015; phone interview with members of the family of the Commissioner, 6 September 2015.

[20] The *Bantu* in addition suffered from killings from what appeared to be acts of casual racist violence. A number of such incidents in 2014, including the killing of a shoeshine boy, were corroborated by members of the Bantu community and witnesses from other clans. Members of the *Bantu* community also reported killings at checkpoints. One account received by the Monitoring Group was of the killing of four brothers at Jambalubi checkpoint at a date in early 2015. A fifth brother survived and went into hiding in Kismayo.

[21] The Monitoring Group conducted interviews with witnesses to the finding of bodies, with NGO sources and with members of the government, between June and September 2015. There was great fear of retaliation expressed by all those interviewed so some details are deliberately vague to protect witnesses.

13. As part of its preliminary investigations, the Monitoring Group was able to investigate and corroborate information on the killing of Sheikh Nadir Sokorow in late June 2014. Sheikh Nadir's body was found dumped in a sack on the morning of 24 June 2014 at the site of the Kismayo hospital, which at the time was under construction. His body bore 9 bullet wounds and signs of torture. Credible testimony received by the Monitoring Group indicates that he had been taken into custody the previous night from his father's home by the then-Head of the Intelligence Service. The arrest came further to an explosion in the Shangala District near the madrasa at which Sheikh Nadir taught, and subsequent to the torture of one of his colleagues by security forces. Information on five other cases which involved the death of individuals subsequent to their arrest by security forces, including photographs of the deceased and testimony, are under examination by the Monitoring Group.

International forces

14. A significant development during the mandate was the increasing scale of engagement—both in terms of personnel numbers and means and methods deployed—of international forces in Somalia, including forces which appeared to operate outside the AMISOM Concept of Operations.[22] Various entities operated in different combinations alongside SNA, clan militia, and regional forces, including engaging in armed action which was not always connected with the conflict against Al-Shabaab.[23] A variety of credible allegations, including from eyewitnesses, were brought to the attention of the Monitoring Group, particularly towards the end of the investigative phase of the mandate when Operation Juba Corridor got underway. Nevertheless, the preliminary findings of the Monitoring Group's enquiries into the conduct and operation of AMISOM troops and of the Liyiu police in a number of incidents are highlighted here.

AMISOM

15. July and August 2015 saw a major uptick in civilian casualties attributable to AMISOM.[24] Twenty-two people were killed by AMISOM in Merka in the last ten days of July 2015, coming

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[22] Operation Juba corridor was launched by African Union Mission in Somalia (AMISOM) and Somalia's National Armed Forces (SNAF) with parallel operations reportedly conducted by the Ethiopian National Defence Forces (ENDF) and the Kenya Defence Forces (KDF). Disquiet within AMSIOM on this framework became public on 17 August 2015 when the Commander of AMISOM Sector 4 Colonel Abdourahman Abdi Dembel gave a radio interview claiming that some Ethiopian troops were not operating in direct cooperation with AMISOM. See, There are Ethiopian forces that are not part of AMISOM troops and present in Somalia, 17 August 2015, www.hiiraanonlinenews.com. Although the claims were later denied by the Somali Minister for Defence, a number of days afterwards the President of Somali Region of Ethiopia Abdi Illay made a speech noting that the Liyiu police was operating inside the Somali border.

[23] Multiple examples during July, August and September 2015 from UN and NGO sources.

[24] Between January and June 2015 30 AMISOM violations were documented, primarily maiming and abductions/detentions. The July figure of 22 is a major shift in both the scale and the pattern of violations. Email, UN staff member, 11 September 2015.

against the background of almost of a year of rising tensions and casualties.[25] The events in Merka were followed by the killing of five civilians by AMISOM personnel in Halgan in Hiran on 8 August.[26] In addition there were 13 reported civilians casualties suffered as a result of Ethiopian National Defence Forces (ENDF) air strikes in July.[27]

16. AMISOM Boards of Enquiry were established to investigate the Merka and Halgan incidents. It is understood that the Board of Enquiry for the 21 July 2015 killings had reported by the time of finalisation of this report although the outcome is not known. Further, a joint investigation into the events in Halgan and Merka was announced after a meeting between the FGS Parliamentary Defence Committee and the Special Representative of the Chairperson of the African Union Commission (SRCC) and his Deputy. A delegation subsequently conducted a visit to Merka.[28] Meanwhile Human Rights Watch conducted its own investigation which determined that six members of the Moalim Iidey family who were preparing for their daughter's wedding were deliberately shot inside the Iidey home by AMISOM soldiers.[29] The Monitoring Group spoke with members of the *Bendadiri* community and, via an interlocutor, with an Iidey family member.[30] The information they provided reflected UN and NGO accounts of the event, including the allegation that two of those shot died from their injuries at the house subsequent to the shooting as they were prevented from seeking medical assistance. A number of interlocutors, including one eyewitness to the event, however, also mentioned that Somali security personnel or militia were also present alongside the AMISOM unit at the time of the killings.

17. It is clear that the operational situation for AMISOM in Merka was, and is, extremely difficult with a long-standing complex inter-clan conflict affecting the town and an isolated SNA contingent co-located at the AMISOM base. Al-Shabaab has been able to carry out numerous IED and grenade attacks on AMISOM in the town. At the same time retaliatory and disproportionate responses to these attacks from AMISOM have resulted in death and injury of civilians and ever-increasing isolation from the community.[31] In this context, the escalated gravity and the community impact of the recent incidents suggests that a Board of Enquiry – with

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[25] On 21 July 15 people were reported killed in separate incidents in the Aw Balle, Jujuuma, and Rusiya neighborhoods; on 31 July 7 people from one family were killed in one incident which occurred inside the family home of six of those killed while wedding preparations were ongoing.

[26] A security source of the Monitoring Group claimed that Liyiu police were also present during the incident, alongside the AMISOM ENDF contingent. On 27 August 2015 there was a further report that ENDF/Liyiu police had opened fire on a civilian mini bus in Gedo (Qoond Hood) and had killed at least four civilians but the Monitoring Group was unable to get further information on the incident.

[27] Email from UN staff member, 9 September 2015.

[28] Email from UN staff member, 7 September 2015.

[29] See Human Rights Watch, AU forces linked to wedding killings, 13 August 2015, available at https://www.hrw.org/news/2015/08/13/somalia-au-forces-linked-wedding-killings.

[30] Interview with Somali NGO staff member, Nairobi, 10 August 2015; interview with Benadiri elder, Nairobi, 11 August 2015; Interview with Somali activist, Nairobi, 16 August 2015.

[31] For example, a former source of the Monitoring Group, AY, was killed in the course of indirect fire from an AMSIOM operation in Merka on 14 November 2014.

its inherently restricted jurisdiction, capacity and 'insider' nature - may not be the most effective mechanism to address the violence. In this regard it should be noted that the killings of the Iidey family occurred less than a week after the Board of Enquiry for the first incident had visited Merka in the course of its investigations.[32] The Monitoring Group believes that consideration must be given to a more independent and transparent mode of investigation and venue for redress.

18. More broadly, there is also a need for AMISOM to examine the larger implications of the situation in Merka in terms of its operations and disposition. In mid 2015 the AMISOM Civilian Casualty Tracing, Analysis and Response Cell (CCTARC) was finally established.[33] It would be important that troop contribution countries urgently scale up collaboration and information sharing with the CCTARC in order that lessons learned from these and other incidents are swiftly integrated into operations.

The Liyiu police

19. The Liyiu police, an Ethiopian paramilitary force based in Region 5 of Ethiopia, has been increasingly active in Somalia. Allegations of serious violations have accompanied their engagements, including with respect to killing, sexual violence and disappearances.[34] One source of the Monitoring Group asserted that at least 4800 Liyiu police were operating in Bay and Bakol alone by the end of August 2015.[35] During July 2015, the UN received reports of civilian killings in Bay (Buur Hakaba) and in Bakol (Tieflow) during July. In addition, as noted in annex 6.3.b the Liyiu police were also alleged to have become involved in, or operated alongside, the *Surre/Hawdle* conflict in Hiran in June 2015.

20. The Monitoring Group received a variety of allegations relating to the conduct of the Liyiu police.[36] The most serious related to a large-scale attack on villages, *inter alia,* in Galgadud on the Somali/Ethiopia border where it was alleged that over 50 people were killed. The Monitoring Group began an investigation into the attack and ascertained that the attack on the border villages, in particular Garsaale and Laba Ceel, appears to have been launched in retaliation for a large attack by hundreds of *Haber Gedir* militia from across the region on the Liyiu police in which as many as 30 officers reportedly died. It was the culmination of an escalated conflict

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[32] There are also indications that the same AMISOM commander may have presided over the two events.

[33] See, *inter alia*, resolution 2182 (2014), paragraph 3.

[34] See, for example, a report on 24 March 2015 which claimed that a Liyiu police officer had been shot in Abudwaaq allegedly in revenge for the dead man's engagement in handing over detainees to intelligences sources across the border. Email from reliable NGO source, 5 March 2015.

[35] Interview with security source with knowledge of armed operations in the region, Nairobi, 7 September 2015. The same source claimed that a total of 17,000 members of the security forces of Ethiopia were present in various forms in Somalia, including the authorized AMISOM contingent number.

[36] See interview with government official, 16 August 2015. In addition to violence against civilians, there were a number of reports of interference with humanitarian operations by the Liyiu police. See interview, NGO staff member, 28 January 2015.

between the *Haber Gedir* and the Liyiu police, which had initially erupted following a dispute over access to a water point.[37] Although the units and command of the Liyiu police involved have been identified, the Monitoring Group is continuing to investigate the circumstances of the attack and impact of the attack on civilians.[38] The information available to the Monitoring Group suggests that the number of people killed in the attack was been 30 and 40.

Torture, unlawful killing and kidnapping

21. Notwithstanding the 2011 commitment declaring a moratorium, there was a rise across Somalia in the number of death penalty sentences passed, and executions carried out during the mandate.[39] In Somaliland, where no executions had been carried out for for a number of years, six executions were conducted. Particularly in southern and central Somalia, the circumstances in which some of these individuals in the military court system were tried, sentenced, and executed cumulatively raised questions of compliance with customary international law relating to the conduct of non-international armed conflict, and thus violations of the mandate.[40] These included, *inter alia*, lack of effective access to legal representation, charge sheets and evidence, and extensive reliance on confessions as the basis of convictions. In one case being followed closely by the Monitoring Group the military court passed two death sentences for murder after a trial which appeared to lack fundamental fairness. In all the circumstances of the arrest of the accused, and in combination with the nature of the prosecution witnesses presented before the court, it is likely that the case was hijacked by clan interests.[41] An appeal was allowed, however, and the case is ongoing.

22. Further to its reporting in S/2014/726 the Monitoring Group continued to receive allegations, although fewer in number, of the use of torture during interrogations by the security

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[37] Interview with security expert with knowledge of the region, Nairobi, 17 June 2015 and 1 July 2015. Credible reports suggest that the ENDF attempted to interpose themselves between the Liyiu police and border but failed to stop the assault.

[38] A number of victims of the attacks have been identified further to an interview with an NGO staff member in Nairobi on 30 June 2015.

[39] According to the UN by the end of August 2015 there had been 26 death penalty sentences passed (Mogadishu 12; Puntland 11; Somaliland 3) in contrast with 22 for the whole of 2014. With respect to executions in 2015 6 were conducted in Mogadishu and Baidoa further to sentences of the military court; four in Puntland and 6 in Somaliland.

[40] Interview with UN staff member, Nairobi, 15 January 2014; see also, Human Rights Watch, *The Courts of absolute power: Fair trial violations by Somalia's military court*, May 2014 at page 1.

[41] Decisions of the court with respect to the imposition of the death penalty on file with the Monitoring Group. See also interview with Somali activist, 15 August 2015. See strictly confidential annex 6.1.1 for further information on this case.

forces, particularly at Godka Jilicow.[42] One case is currently under investigation. The Monitoring Group also continued to receive credible allegations relating to the phenomenon of arrest, detention and beating of individuals at secret locations by NISA officers as a form of extortion, especially of those perceived as coming from the diaspora.[43] The SPF was also reported to be involved in this practice, however the conduct and ill treatment generally involved only unlawful arrest and detention.

23. In February 2015 the Monitoring Group began to receive reports that an SNA paramilitary unit referred to by communities as, "Alpha 4" was "systematically abducting and arresting Barawani teen age boys and accusing them for being members of Al-Shabab, and demand money of up to USD 500 per person for their release".[44] A *Barawanese* elder confirmed to the Monitoring Group that between nine and ten incidents of abduction of young *Barawanese* men residing in Barawe or in Mogadishu had been recorded by families of his acquaintance.[45] He recounted how on one occasion in 2015 his nephew had visited Barawe from abroad and had been abducted from his home by armed security officers in full-face masks. No reason for the arrest was given.[46] Further to his abduction—as is the practice which has allegedly developed since the phenomenon began—the family contacted an "agent" in Mogadishu who made arrangements for the young man's elder brother to travel to Mogadishu and be given sight of the "prisoner" where he was being held in an ordinary house in an area of Mogadishu. Payment terms were agreed and upon the handover of 2000 USD cash to the armed "agent" the young man was released immediately to his brother. Two other *Barawanese* elders contacted by the Monitoring Group expressed the view that there was deliberate targeting of families who were understood to have access to resources either directly or through supportive relatives abroad. The young men who were abducted and later released reportedly told the elders that they were questioned very simply at the time of arrest, transferred to Mogadishu and then simply held until their release. No ill treatment was described. In no case of which the elders were aware were individuals charged with any offence after their abduction; the extortion of payments was the primary objective of the arrests. The Monitoring Group is continuing its investigation into this phenomenon.

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[42] Interview with Somali activist, London, 4 December 2014; Interview with senior INGO staff member, Nairobi, 30 June 2015; On 31 August 2015 a statement by the Benadir Al-Shabaab Wali Sheikh Ali Jabel claimed responsibility for the complex attack carried out on the same day on Godka Jilicow, claiming that "Muslims have been tortured and punished there"; See also the report of the killing as a result of torture further to interrogation of a man arrested in possession of IEDs accused of being an Al-Shabaab operative by Somali security forces in Dollow in Gedo on 17 October 2014.Email from reliable NGO source with knowledge of Dollow, 19 October 2014.

[43] Interview with senior INGO staff member, Nairobi, 30 June 2015.

[44] See, *inter alia*, email from UN staff member, 19 February 2015.

[45] Interview with *Barawanese* elder, undisclosed location, 16 July 2015.

[46] The date of the abduction is not provided here for security reasons. It was noted that in Mogadishu the armed security officers were accompanied to the homes of those abducted by "local people". It is not clear in what capacity these civilians operated.

Annex 6.1.a: Arrest of 11 members of the Salaax militia, 20 May 2015

(STRICTLY CONFIDENTIAL)*

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* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 6.2.a: The situation of the *Bantu/Wagosha* community in Al-Shabaab held areas of Lower and Middle Juba

26. Since Al-Shabaab seized control of the Juba Valley members of the *Bantu/Wagosha*[47] farming community who inhabit the riverine villages and key towns have become increasingly subject to systematic violations of international law, including killing, maiming, torture and inhuman or degrading treatment or punishment of civilians, and sexual and gender-based violence. The violations have increased in number and ferocity as pressure on resources and territory from an ongoing offensive see Al-Shabaab prepare for a 'final stand'.[48]

27. The range of persistent and serious violations experienced by the community as documented by the Monitoring Group may constitute war crimes in non-international armed conflict and also crimes against humanity, including with respect to the underlying acts of persecution, murder, torture and sexual slavery.[49] The nature and scale of the persecution and forced displacement of the community, coupled with allegations of inward transfer of population to lands from which the community has been displaced (yet to be investigated by the Monitoring Group) may also be understood as ethnic cleansing.[50]

28. Members of the community interviewed perceived their current treatment by Al-Shabaab as an escalation in a continuum of persecution by dominant groups and clans who have viewed the *Bantu* as second class "adoons" (slaves). There is a long history of severe persecution of the community, including, as well-documented, by *Hawiye* and *Darood* militia in the wake of the fall of Siyaad Bare regime. This led some of those interviewed to describe Al-Shabaab as the

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[47] Although the terms *Bantu/Jareer* (hard hair) are not anthropologically accurate and have pejorative implications they have been reclaimed by the community and are used here. Among other pejorative terms used for the Bantu are Adoon (slave), Habash (servant), Ooji (from either Italian Oji "today" or Swahili Uji "porriage") Jereer (kinky hair), Sankadhudhi (broad nose). See note below for an account of the origin of the community.

[48] The majority of the violations documented by the Monitoring Group occurred in the context of extortion and taxation land grabbing, repression of culture and language and punishment of Al-Shabaab decreed 'offences'.

[49] Articles 8(2)(c) and (e) of the ICC Statute describe war crimes in non-international armed conflicts. The essence of crimes against humanity is an attack (whether armed or unarmed) directed against a civilian population. Crimes against humanity comprise various "underlying acts" – such as murder, extermination, deportation or forcible transfer of population, persecution, rape and other inhumane acts – which are "committed as part of a widespread or systematic attack directed against any civilian population". See ICC Statute, art. 7(1). Persecution as a crime against humanity is constituted by "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity" committed in the context of an "widespread and systematic attack" on the civilian population. (Art. 7(2)(g) Statute).

[50] Ethnic cleansing is "a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas". See Part III, B Final Report of the Commission of Experts Established Pursuant to UN Security Council Resolution 780 (1992), 27 May 1994 (S/1994/674). Although ethnic cleansing is not a crime as such, acts carried out in furtherance of a policy of ethnic cleansing may, in certain circumstances, constitute crimes defined in articles 6 to 8 of the Rome Statute of the International Criminal Court.

new face of a continuum of oppressors: Al-Shabaab was "the worst of the colonial entities".[51] Yet another called the collective experience of persecution and displacement as "genocide".[52]

29. The Monitoring Group's focus therefore not only highlights that this community is the current target of systematic violations of the mandate. It is also intended to warn that it is potentially vulnerable in the context of any change of authority. One elder described the situation in Al-Shabaab-held areas as the latest episode in a "long term strategy" to "get rid of" the *Bantu* from the Juba Valley.[53] Grave concern was expressed that patterns of killing, extortion, forced displacement and violent land-grabbing experienced under Al-Shabaab would continue if local power elites were permitted to continue to assert control in a new 'liberated' framework.[54] It was claimed that the senior leadership of Al-Shabaab in the region were from dominant clans and that many had ongoing business and security relationships with clan, business and military/security networks of the Interim Jubbaland Administration (IJA) and Kenyan and Ethiopian military structures.[55] Indeed as this report was being finalised in late August 2015 reports were being received that Ethiopian and Somali security forces were removing *Bantu* farmers from their lands around Bardhere (south towards Sakow) in order ostensibly to clear mines. Refusal to leave was being met with beatings. Members of the community told Monitoring Group sources that they were fearful that this clearing was in fact a land-grab. The Group was unable to corroborate these reports, but they do reflect the level of fear of the community.[56]

30. With the community effectively held hostage and subject to forced recruitment by Al-Shabaab, the anticipated military offensive was a major concern to all those interviewed with family members in the area. In addition to the expected deaths of children who had been conscripted, members of the community were fearful that the *Bantu/Wagosha* community more broadly would be scapegoated and persecuted in the context of any transfer of power.[57]

Methodology

31. Over eighty individual and focus group interviews were conducted in person and on the telephone with recent direct victims of violations allegedly committed during 2014 and 2105, indirect victims, and with individuals in the diaspora with family members currently living in

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[51] Interview with AJ, United States of America, 1 June 2015.

[52] Interview with AA, United States of America, 30 May 2015.

[53] Interview with Mursal Hayder, Head of Seattle Bantu, 30 May 2015.

[54] Indeed one of the frequent suggestions was that the delay in the launch of the offensive to "liberate" the Juba Valley was part of a strategy to ensure that both the community was displaced as much as possible from its land and that those remaining could be easily dispossessed of their land and accused as collaborators with Al-Shabaab.

[55] The exclusion and marginalization experienced by the community in Kismayo exacerbated this perception. In July a new *Haber Gedir* commander was appointed by Al-Shabaab in Lower and Middle Juba.

[56] Email from *Bantu* activist in the US, 24 August 2015.

[57] The period of time when the UN was in control in the region was cited by many as a period of protection and safety.

areas of the Juba Valley under the control of Al-Shabaab, including those with family members who are low-ranking members of Al-Shabaab.[58] The majority of testimonies were collected from family members of victims and victims from rural communities and small villages outside the big towns. Although the majority of those interviewed had left Somalia up to ten years previously, some had been able to return to meet family members in Kenya or Kismayo more recently.[59] Other interviews were conducted with refugees who had fled villages in the Juba Valley during the last twelve months. Journalists, UN and international non-governmental organisation (NGO) and local NGO staff members, and academics were also consulted.

32. The testimonies contained in this report relate to events which allegedly unfolded in villages between and around Jilib and Jamame in Middle and Lower Juba between 2013 and 2015. The precise names of the places where the events occurred are not used in the report for reason of the safety of those interviewed and their families. It was not possible to investigate and corroborate individually the over one hundred incidents described. The main focus therefore was on identifying case patterns both in terms of prohibited conduct and geography and corroborating the information with reliable UN and non-governmental organisation (NGO) sources. Due to the highly isolated nature of the community efforts were made to reflect as much as possible of the individual experiences for the record.

33. The details of the findings of the Monitoring Group's investigation are presented in strictly confidential annex 6.2.b.

A note on the origins of the *Bantu/Wagosha* community

34. Although all histories of identity in Somalia are highly contested, Somali and international academics consulted by the Monitoring Group suggest that there is consensus around the *Bantu* community having two roots: the first is in indigenous communities who were the first inhabitants of south and central Somalia along the Shabelle and Juba valley and elsewhere; the other is in escaped slaves originally from Tanzania, Malawi, and Mozambique who fled to the Juba Valley in the mid 1800s and settled along the river banks[60] In their isolated forests and farms of the Juba Valley these communities were able to maintain a homogeneous culture, with distinct language and traditions. Those who did integrate closer to the Somali population either

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[58] Interviews were conducted in Kenya, Somalia the United Kingdom, and the United States. Due to the extreme fear expressed by the community, including in particular the threat of retaliatory attacks on family members, names and places of interviews are indicated only by initials. Consistent fear and suspicion was expressed not just of Al-Shabaab but of 'Somalis' whom the community were convinced still had the power to control and disrupt their lives in exile. It is difficult to convey the depth of the fear which was observed, including with respect to the safety and security of meeting rooms thousands of miles from the Juba Valley.

[59] It was not possible to direct conduct interviews with individuals living in the area although some phone interviews were conducted indirectly by Somali interlocutors.

[60] The villages and towns in Bantu areas of Lower and Middle Juba with their Swahili based names reveal the origin of these towns: Cha mama (became Jamame); Osman Moto (an original Shekih of the community).

came directly under protection of other clans adopting a dual-identity, (as *Biomaal/Jareer* or *Digle/Jareer*, for example) or maintained an evolved but separate identity, Mahaway, including speaking the Maay Maay language. Both communities are collectively termed, "*Wagosha*" or the "people of the forest".

35. *Bantu* communities are often considered as second-class citizens and 'not true Somali' because of their ethnic difference.[61] The continued marginalization and vulnerability of the *Wagosha* community of the Juba Valley in their different alignments also allowed them to be easily manipulated, divided, and controlled. As a result, tensions between the Zigua speaking community and the Maay Maay speaking *Bantu* community are significant, including around what is perceived as different levels of compromise and collusion with those which are viewed as the dominant clans.

36. In a forthcoming academic article it is estimated that the population of *Bantu* in the Juba Valley is between 851,206 and 1,571,302 or 6.9 per cent to 14.9 percent of the national population.[62] This is significantly greater than previously understood with implications for the participation of the community in the federal process.

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[61] The level to which this exclusion has been absorbed is reflected in the fact the many in the community refer to other Somalis as simply "Somalis".

[62] See, Dan Van Lehman and Risa Proehl, Population Estimates of Somali Bantu with East African Slave Ancestry, draft 1 September, 2015, forthcoming, Journal of Somali Studies.

Annex 6.2.b: The situation of the *Wagosha/Bantu* community in Al-Shabaab held areas of Lower and Middle Juba

(STRICTLY CONFIDENTIAL)[*]

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[*] The annex has not been reproduced in the present document because it is strictly confidential.

Annex 6.3.a: Commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, December 2013 – 2015

39. Between 2013 and late 2104 a series of large scale attacks on *Surre* (*Dir*) farming villages of Kabxanley and Defow in Hiran on the banks of the river Shabelle resulted in killing and maiming of civilians, the commission of sexual and gender based violence and forced displacement.[63] The attacks were carried out by *Hawadle* (*Hawiye*) clan militia augmented and constituted by personnel of the Somali National Army (SNA) and Somali Police Force (SPF), and supported politically and financially by regional and national government leaders and powerful members of the *Hawadle* clan.[64]

40. After the first attack on Kabxanely in December 2013 a Government enquiry found that the fighting had caused huge losses in terms of death, injuries and the burning and destruction of the whole village.[65] Among the comprehensive recommendations of the delegation was that the "government" would "take the responsibility [to pay] for the damages caused by the fighting such as burned down houses and water pumps". The agreement was never implemented. In the wake of the attack a series of small clashes between respective militia continued with violence against civilians committed by both sides.

41. On 15 July 2014, a second major attack by forces allied with the *Hawadle* began in the village of Defow, another *Surre* village where many civilians displaced from Kabxanley had taken refuge. Once again the village was destroyed and the population fled. Almost the entire *Surre* civilian population in Kabxanley and Defow, estimated at over 12,000 people, were displaced including across the border into Ethiopia. Eventually the *Surre* community regrouped and with support of fighters and equipment from *Surre* clans in other parts of the country, and others, led a series of counter attacks. The force ousted the *Hawadle* militia from primary control of Kabxanley and Defow in a series of fierce battles between January and March 2015.

42. The *Surre* community have described the attacks on their villages as constituting a "calculated plan spearheaded by the regional administration to takeover some of the best commercial farmlands in Hiiraan and distribute among the Hawadle clan which dominates the political affairs".[66] The *Hawadle* community, on the other hand, contend that the *Surre* had only

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[63] The residents of Kabxanley are primarily the *Surre/Fiqi Omar* and those of Defow the *Surre/Fiqi Mohamed*. The *Surre* is a *Dir* clan, with two branches, *Abdalle* and *Qebeys*, found in Mudug, Hiran, Gedo and the Jubbas.

[64] Some small scale support for the attacks was also initially provided by members of the *Makane* community, also inhabitants of the Shabelle river area, and in some respects, rivals with the *Surre* farming communities. It was alleged that humanitarian inputs were used to induce and secure their cooperation.

[65] Copy on file with the Monitoring Group. Quotations in English from the resolution are informal translations by an interlocutor of the Monitoring Group.

[66] Written submission on behalf of the *Surre* community, June 2015; this statement is also reflective of the views expressed by many of those interviewed.

recently arrived in the area and had no entitlement to the land and its benefits.[67] Previous to the attacks large numbers of *Hawadle* from other parts of Hiran were invited and supported to settle in areas close to the two villages, induced by the promise of land. These settlements, referred to as "villages created by force" or '*tuulo soog*' by the *Surre* community, constituted militia encampments and rear bases for the attacks.

43. In all of these circumstances, the phrase "ethnic cleansing" has been used to describe the violence against, and displacement of, the *Surre* community.[68] The complete impunity of the military and political leaders who funded and planned and perpetrated the attacks on Kabxanely and Defow not only created a human rights and humanitarian crisis, it has also permitted an escalation in the intensity of the violence and the range of actors involved in the conflict. External support to the *Surre* became inevitable. At the time of writing the two sides are in military stalemate, peace talks are stalled, and the majority of the civilian population of Kabxanley and Defow are still in exile. Meanwhile a state formation process is ostensibly underway for Hiran and Middle Shabelle.

44. Due to the ongoing fragility of the context, with almost weekly engagements between the parties, a full and detailed account of the attacks, the violations committed, the humanitarian impact and a discussion of allegations relating to those militarily, financially and politically responsible, is set out in strictly confidential annex 6.3.b.

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[67] The *Surre* claim that they have been connected to Kabxanley and Defow for at least 500 years.

[68] See, for example, interview with international non-governmental organisation (INGO) staff member with knowledge of the situation in Hiran, Nairobi, 27 March 2015. Ethnic cleansing is "a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas". See Part III, B Final Report of the Commission of Experts Established Pursuant to UN Security Council Resolution 780 (1992), 27 May 1994 (S/1994/674).) Although ethnic cleansing is not a crime as such, acts carried out in furtherance of a policy of ethnic cleansing may, in certain circumstances, constitute crimes defined in articles 6 to 8 of the Rome Statute of the International Criminal Court.

Annex 6.3.b: Commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, December 2013 – 2015

(STRICTLY CONFIDENTIAL)*

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* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 6.4: Sexual and Gender Based Violence (SGBV), recruitment and use of children in armed conflict and forced displacement

47. This annex contains summaries of the main trends in violations with respect to these three areas of focus of the mandate including addressing developments in practices and the legal framework which tend to prevent occurrence of such violations and enhance compliance with the sanctions regime.

Sexual and Gender Based Violence (SGBV)

48. Since S/2014/726 there has been little change in the pattern and scale of allegations of the commission of SGBV. Armed actors remain the main perpetrators of the commission of rape by a stranger. The right to remedy remains almost never fulfilled. Between January and December 2014, the Gender-Based Violence Information Management System (GBVIMS) recorded 4,737 cases (50.9 per cent physical assault, 27.4 per cent rape, 9.5 per cent sexual assault, 7.1 per cent denial of resources, opportunities and services, 3.4 per cent psychological abuse and 1.7 per cent forced marriage). 84 per cent of the survivors were IDPs.[69]

49. In Al-Shabaab-held areas there were a range of violations documented by the Monitoring Group, including forced marriage and a practice called '*Dumaashhi*' involving the taking of new brides by Al-Shabaab fighters, in particular in Lower and Middle Juba.[70] Inter-clan conflict was once again a context in which rape was used as a tool to punish and assert dominance with specific allegations received by the Monitoring Group on the commission of SGBV by clan militia in Lower Shabelle and Hiran.[71]

50. In the wake of allegations regarding the commission of SGBV by AMISOM personnel – including by Human Rights Watch[72] and the Monitoring Group[73] – the summary findings and recommendations of an Independent Investigation Team established to investigate allegations of Sexual Exploitation and Abuse by AMISOM personnel were published in April 2015.[74] The report determined that only two of the allegations were founded, including one case which had been investigated and documented by the Monitoring Group in S/2014/726.[75] Despite the

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[69] The data is only from reported incidents to service providers directly working with GBV survivors. The consolidated data is in no way representative of the total incidents or prevalence of GBV in Somalia. See http://www.gbvims.com/what-is-gbvims/.

[70] See annex 6.2.a and strictly confidential annex 6.2.b.

[71] See, inter alia, annex 6.3.a and strictly confidential annex 6.3.b. 'Clan militia' in many cases were also SNA personnel.

[72] Human Rights Watch, "The Power These Men Have Over Us – Sexual Exploitation and Abuse by African Union Forces in Somalia", 8 September 2014.

[73] S/2014/726, strictly confidential annex 8.4. See also paragraphs 32 – 34, resolution 2182 (2014).

[74] Press release, "The African Union releases the key finding and recommendations of the report of investigations on sexual exploitation and abuse in Somalia", 21 April 2015.

[75] Although two troop contributing countries (TCCs) launched their own investigations relating to the allegation, TCCs were very reluctant to share information with the team.

Security Council urging AMISOM to implement the recommendations of the report, there has been little change on the ground.[76] Meanwhile the Monitoring Group received reports of the commission of SGBV by international security forces operating outside of the AMISOM framework.[77]

51. There were small steps forward in terms of improving the national framework of prevention and redress for SGBV crimes. At the federal level the Federal Government of Somalia (FGS) Attorney General initiated a new approach to prosecuting SGBV crimes, including with the engagement of two female prosecutors.[78] In Somaliland crimes increased support for prosecutors and investigators resulted in increased prosecutions of SGBV. By late August 2015, Sexual Offences Bills were under development—albeit at different stages—at the federal level, and regionally in Somaliland, Puntland and the IJA. With the highest global incidence of female genital mutilation (FGM), presentation of a bill to outlaw the practice to the Puntland parliament and the development of a similar bill at the federal level, represented significant breakthroughs. The National Action Plan for Sexual Violence in Conflict, presented at the June 2014 London conference, however, still awaits implementation and funding.

52. Nevertheless, pursuing justice for SGBV crimes remained extremely difficult. Huge obstacles are integral to the system, including in particular the conduct of officials charged with receiving and investigating allegations. One severe illustration of this during the mandate involved a young girl of fifteen who approached the FGS Criminal Investigation Division in Mogadishu with an allegation of gang rape. She, her mother and a staff member of a non-governmental organisation (NGO) accompanying her were insulted, interrogated, and finally arrested, accused of inventing the claim.[79]

Recruitment and use of children in armed conflict

53. Against the background of an intensified campaign against Al-Shabaab, and as clan, business and political networks positioned themselves to contest control of land and populations, new cycles of conflict and militarization created an opportunity for increased child recruitment.[80]

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[76] Preamble, resolution 2232 (2014).

[77] Interview with security expert, Nairobi, 7 September 2015.

[78] Meeting with staff of the Office of the Attorney General, 2 July 2015, Nairobi.

[79] See, Strategic Initiative for Women in the Horn of Africa (SIHA) and Somali Women Development Centre (SDWC), Press release: "Mogadishu: student gang raped", 1 July 2015, on file with the Monitoring Group.

[80] The Report of the Secretary General on Children and armed conflict for 2014, 5 June 2015, (A/69/926–S/2015/409) documented the recruitment and use of 819 children (779 boys, 40 girls) by Al-Shabaab (437), national army and allied militia (197), Ahlu Sunna wal Jama'a (109) and other armed elements (76). It was noted that these numbers should be understood against reduced capacity to access and verify reported incidents. Three parties continued to be listed for 2014: Al-Shabaab (recruiting, killing and maiming), ASWJ (recruiting) and the SNA (recruiting, and killing and maiming).

54. The gravest violations were seen in Al-Shabaab held areas, including in Middle and Lower Juba where the Monitoring Group documented an increase of child recruitment from early 2015.[81] This included situations where whole villages were forced to render their children and young men (or pay for an exemption) and where young boys 'disappeared' *en masse* from Al-Shabaab madrasas.[82] Across the border in Kenya the Monitoring Group received reports of radicalisation and recruitment through madrasas in the refugee camps.[83] Children were used both in support functions and in direct operations, including incidents where explosive devices were used.[84]

55. In the context of a rise in military activity in Sool and Sanaag reports were received of the deployment of children as young as 10 or 12 in support of the armed forces of Somaliland.[85] Children were also observed at checkpoints operated by other militia in the areas. Ahlu Sunna wal Jama'a (ASWJ) was listed for the second year in the report of the Secretary-General on children and armed conflict for child recruitment.[86] More broadly the Secretary-General expressed particular concern about "the ongoing recruitment and use of children by clan militias", with implications for joint operations by national forces and AMISOM, including with respect to delegation of control for 'recovered' areas.[87] 197 incidents of child recruitment and use by the SNA and allied militia were documented during 2014.[88]

56. Under the stewardship of the SNA Child Protection Unit, however, efforts continued to prevent child recruitment to the SNA. A vetting process of prospective recruits conducted in Kismayo in June, for example, saw the screening out of 36 children. As the numbers of those defecting or being separated from armed groups rises, whether in the context of amnesty or FGS/AMISOM operations, ensuring that such children are safely received and transferred to the appropriate protective actors, and that recycling does not occur, is critical.[89] In January 2015 seven human rights monitors were trained and deployed in the context of Somalia's "National Programme for the Treatment and Handling of Disengaging Combatants and Youth at Risk in Somalia".

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[81] There were 451 verified incidents of child recruitment during the first six months of 2015, with Al-Shabaab remaining the main perpetrator. Email, UN staff member, 10 September 2015.

[82] See annex 6.2.a and strictly confidential annex 6.2.b.

[83] Interview with refugee leaders, Nairobi, 31 October 2014.

[84] Interview with explosives expert, Mogadishu 3 February 2015; email, security source, 23 May 2015.

[85] Phone interview with Las Anod resident, 26 June 2015.

[86] See A/69/926–S/2015/409, 5 June 2015.

[87] A/69/926–S/2015/409, paragraph 147.

[88] A/69/926–S/2015/409, paragraph 147. There were incidents in which children were used by AMISOM in "support functions". See also Report of the Secretary-General to the Security Council on Children in armed conflict, 5 June 2015, (A/69/926–S/2015/409), paragraph 147.

[89] The Monitoring Group received credible information from a number of sources that children in one reintegration centre were used for intelligence gathering activities.

57. In December 2014, the FGS Parliament adopted a law ratifying the Convention on the Rights of the Child which was signed by the President of Somalia on 20 January 2015.

Forced displacement[90]

58. There was little relief for over 1.1 million internally displaced persons (IDPs) in Somalia.[91] During the mandate the largest displacements of people were caused not by conflict, but by forced evictions of IDPs and urban poor by government and private actors.[92]

59. Almost 100,000 IDPs alone were pushed out of city settlements, victims of the rush to invest in Somalia's booming real estate sector, facilitated by an environment of corruption and unregulated land speculation.[93] The use of force in some of these eviction operations resulted in death, injury and demolition of homes, generating additional violations of the mandate. In two days in early March 2015, for example, security personnel forcibly evicted over 21,000 IDPs from the Maslax and Aslubta areas of Kahda district, beating many, destroying shelters and preventing the collection of personal belongings.[94] There were serious protection and humanitarian consequences. At the end of August 2015 over 42 per cent of the population of Benadir were in the crisis or emergency phase of food insecurity.[95] The protection, peace and security implications of forcing an estimated 100,000 vulnerable IDPs into the Afgoye corridor—an area with increasing Al-Shabaab presence—appear not to have been considered. Despite calls by the Security Council for "relevant national law" to govern the conduct of

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[90] The Monitoring group is required, *inter alia*, to report on "violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including [...] forced displacement", Resolution 2093 (2013), paragraph 43 (a).

[91] As noted in S/2014/726 and throughout this report, victims of forced displacement and confinement were more likely to be exposed to a variety of other violations of international law, including of attacks on civilians, sexual and gender based violence (SGBV), forced recruitment and denial of access to humanitarian aid.

[92] The term "forced evictions" is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. See United Nations Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (article 11.1): forced evictions, 20 May 1997, E/1998/22.

[93] Over 96,000 people, the vast majority of whom are IDPs were forcibly evicted from Mogadishu and other major urban areas in Somalia such as Baidoa, Bosaso, and Kismayo between January and May 2015.

[94] See, for example, Human Rights Watch, "Somalia: Forced Evictions of Displaced People - Tens of Thousands at Risk in Capital", 20 April 2015. The Monitoring Group was also informed that two police officers and a young girl were killed in the course of a forced eviction and demolition by Somali security forces which met armed resistance. The incidents occurred at Jaale Siyaad Military academy in Mogadishu on 27 May 2015. Email from NGO source, 28 May 2015.

[95] FAO Food Security and Nutrition Analysis Unit (FSNAU), FSNAU-FEWS NET Technical Release, August 31, 2015. The Integrated Food Security Phase Classification (IPC) is a set of tools and procedures to classify the severity of food insecurity using a five-phase scale.

evictions, the adoption in October 2014 of a new national policy on internal displacement has had little impact.[96]

60. Conflict related displacement continued to force waves of flight and return, as some areas changed authority multiple times. Meanwhile populations suffered forced confinement in Al-Shabaab territory.[97] The new anti-Al-Shabaab offensive which began in July 2015 resulted in the displacement of over 40,000 people in Bakool, Bay, Galgadud, Gedo, Hiran and Lower Shabelle, often to towns already stretched by previous waves of displacement.[98] In addition, inter-clan and political conflicts—often intertwined with Al-Shabaab engagement—forced communities to flee their homes in Lower Shabelle, Hiran, Sool and Sanaag.[99]

61. By 30 August 2015, 3510 refugees had returned from Kenya to Baidoa, Kismayo, Luq and Benadir under a special pilot voluntary return program. On 29 July 2015 a meeting of the Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya agreed that the "safe, dignified and voluntary repatriation" of Somali refugees would be "scaled up".[100] At the same time almost 26,000 Somalis, alongside almost 3000 Yemeni refugees, had returned from Yemen where they held refugee status.[101] Meanwhile a voluntary return program from Ethiopia is under discussion. In the context of these large-scale returns, continuing cycles of internal conflict and expected environmental phenomena such as El Niño, the number of those internally displaced in Somalia is expected to climb. The design of comprehensive solutions rather than tactical responses to immediate crisis is badly needed.[102]

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[96] In resolution 2232 (2015) the Security Council expressed "concern at the increase in forced evictions of internally displaced persons from public and private infrastructure in major towns in Somalia". It stressed that "any eviction should be consistent with relevant national and international frameworks" (paragraph 30).

[97] See annex 6.1.

[98] Email from UN staff member, 9 September 2015.

[99] Forced displacement of civilians may, in certain circumstances, constitute war crimes in non-international armed conflict or crimes against humanity. See, inter alia, Rome Statute of the International Criminal Court article 7 (1) (d) and (h) and article 8(2) (e) (viii).

[100] See, Joint Communiqué Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya, 30 July 2015, Kenya (on file with the Monitoring Group). The Commission pledged to support returns to any place in Somalia with a special focus on six districts identified for comprehensive return and reintegration support: Mogadishu, Afgoye, Jowhar, Balad, Wanlaweyn and Belet Weyne.

[101] As of 31 August 2015 there were 28, 887 people of concern who had register with UNHCR upon arrival from Yemen: 25,802 Somali returnees; 2,872 Yemeni prima facie refugees and 213 third country nationals. See Somalia Task Force on Yemen Situation, Weekly Inter-Agency Update # 35, 25 – 31 August 2015. The authorities in Puntland and Somaliland have been at the forefront of the response. There have been no reports of *refoulement*.

[102] In November 2013 UNHCR launched a Global Initiative on Somali Refugees (GISR) with the aim of "seeking ways to create and advance durable solutions for Somali refugees". http://www.unhcr.org/pages/527b8f7d6.html.

Annex 7

Arms embargo regime

Annex 7.1: Management of weapons, ammunition and military equipment

1. In resolution 2182 (2014) the Security Council recalled that "improved arms and ammunition management in Somalia is a fundamental component of greater peace and stability for the region".[1] When renewing the partial lifting of the arms embargo, the Council linked future renewal of the provision with the Government's reasonability "to ensure the safe and effective management, storage and security of their stockpiles".[2]

2. This annex examines a key area of the Federal Government of Somalia (FGS) weapons and ammunition management (WAM) responsibility with respect to managing materiel controlled by its own security forces: progress relating to registration, recording, distribution and accounting for weapons and ammunition.[3] The Monitoring Group also assessed progress in two other areas which impact the overall environment of control of the use of arms and related materiel and have the potential to impact peace and security: the management of FGS security force uniform stocks and prevention of their unauthorised use; and the regulation and oversight of weapons held by private individuals and entities. Compliance by the FGS and the African Union Mission in Somalia (AMISOM) with obligations to document captured military equipment pursuant to paragraph 6 of resolution 2182 (2014) is addressed in annex 7.4.

Development of a comprehensive WAM system

3. In October 2014 the Council acknowledged that while there had been steps taken to establish effective mechanisms for weapons and ammunition management, the appropriate structures were "not functioning with the required level of efficiency nor at all levels of Government".[4] In response to this criticism the FGS redoubled its efforts to establish a project to develop a comprehensive approach to WAM management. The project was initiated during 2014 in collaboration with the United Nations Assistance Mission in Somalia (UNSOM) Rule of Law and Security Institutions Group (ROLSIG) and the UN Mine Action Service (UNMAS). The project envisaged the creation of a framework of

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[1] Preamble, Security Council resolution 2182 (2014).

[2] Preamble and paragraphs 8 and 9, resolution 2182 (2014).

[3] The two other pillars of effective WAM are the development of adequate storage infrastructure and procedures for weapons and ammunition, including physical security and stockpile management and the ability to identify and track those personnel authorised to be issued with weapons: FGS obligations with respect to clarity on force structure are discussed in annex 7.3.

[4] Resolution 2182 (2014) paragraph 4. The institutional architecture charged with the development of effective weapons and ammunition management includes: the Arms and Ammunition Steering Committee (AASC) which provides strategic guidance and is chaired by the National Security Adviser and composed of representatives of the FGS, the UN, the African Union Mission in Somalia (AMISOM), the European Union, bilateral partners, and non-governmental implementing partners; the Somalia Explosives Management Authority (SEMA) responsible at the operational level for ensuring effective WAM throughout the Somali security forces; and the Weapons and Ammunition Management Technical Working Group (WAM TWG) which is composed of: FGS representatives; UN entities; AMISOM, the European Union and other bilateral partners and, NGOs.

standards, systems, and procedures alongside the provision of equipment and conduct of basic training, intended to ensure marking, record keeping, management, distribution and verification of weapons, including small arms and ammunition in Somalia.[5] It was also geared towards assisting the FGS in its compliance with Security Council reporting and notification requirements. Despite a number of requests to donors, including to Member states via the Committee, by 31 August 2015 the project had not yet been funded.[6]

4. Notwithstanding the absence of funding for the project as a whole, some of the initiatives comprised in the project plan were implemented. First, baseline surveys of arms and ammunition were conducted and completed in three locations, Mogadishu, Baidoa and Beletweyne.[7] Second, in July 2015 and August 2015 UNSOM and UNMAS trained 25 personnel from all four FGS security forces and the Office of the National Security Advisor (NSA) in the destruction of non-serviceable small-arms and light weapons.[8] Weapons marking, registration and record keeping training by UNMAS and the Regional Centre on Small Arms in the Great Lakes Region (RESCA) is also ongoing. Meanwhile the UN Institute for Disarmament Research (UNIDIR) began a consultation process to develop national frameworks for WAM, in cooperation with the FGS and UN partners.[9] A small arms and light weapons survey project by the Small Arms Survey is expected to report in November 2015.

5. Despite these concrete steps, major gaps in the overall Somali WAM framework—from lack of clear standards and procedures to implementation capacity—continue to hamper the ability of the FGS to comply with Security Council requirements under the partial lifting of the arms embargo. The Monitoring Group urges Member States continue to support the development of a comprehensive WAM framework, not least as the number of weapons under FGS control has increased since the partial lifting of the arms embargo and will only further increase as support for the Gulwade plan gets underway.[10]

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[5] WAM Pilot project draft, 22 June 2015, on file with the Monitoring Group. For a more in depth discussion of international support to the FGS to build compliance capacity see annex 7.5

[6] See, for example, letter dated 20 December 2014 from the Permanent Mission of Somalia to the United Nations addressed to the Chair of the Committee, S/AC.29/2014/COMM.124, transmitted to the Committee as S/AC.29/2014/NOTE.130, 31 December 2014 (The delay in circulation was a result of the Secretariat's attempts to reach out to competent Somali authorities for clarification on the intended recipients.)

[7] The findings of these baseline surveys were shared with the Security Council.

[8] UNMAS newsletter, undated (July) on file with the Monitoring Group; 150 unserviceable weapons were destroyed. One more weapons shears training is planned to be conducted in 2015 which will destroy the remaining stocks of unserviceable weapons from the Police and NISA. Phone interview, UN staff member, 1 September 2015.

[9] See, *inter alia*, Towards a National Framework for Arms and Ammunition Management in the Federal Republic of Somalia. Geneva: United Nations Institution for Disarmament Research (UNIDIR), forthcoming (2015).

[10] For a discussion of numbers of weapons and ammunition imported further to notification to the Committee see annex 7.2.

Procedures for registration, distribution, use and storage of weapons

6. The FGS has shown the greatest WAM progress in the area of weapons marking and registration. In October 2014 the Security Council had expressed disappointment that a weapons marking and registration process had not yet commenced, urging the FGS to implement the process "without further delay".[11] By the end of July 2015 over 4600 weapons (both imports and existing weapons) in service with, or allocated to, Somali National Army (SNA), National Intelligence and Security Agency (NISA) and private security company personnel, had been marked and registered.

7. The first marking machine arrived at the Ministry of Internal Security (MIS) in August 2014. By the 31 August 2015 1776 weapons had been marked at the MIS, 350 of which were weapons assigned to NISA and the remainder part of a programme of marking and registering weapons held by private security personnel entities. It is understood that preparation for the marking of weapons in service with the Somali Police Force (SPF) is underway.[12]

8. Further to training in February 2015 conducted by UNMAS and UNSOM, in March a 12-man SNA team began work at Halane Central Storage facility, marking AK47s and pistols using a second marking machine donated by UNMAS. The Monitoring Group visited Halane armoury on 11 March 2015 and observed weapons marking in progress.[13] Eventually managing to mark at a commendable rate of 10 weapons per hour, the SNA team's progress was later slowed by both the movement of stockpiles and the distribution of unmarked weapons to personnel.[14] The momentum was further interrupted when seven members of the weapons marking team coming from marking weapons at Villa Somalia found themselves in the vicinity of an attack on a vehicle in which two members of Parliament were travelling and were arrested. Alongside many others who were in proximity to the attack at the time, the team was swept up in the security response to the killing. It is understood that the intervention of the President secured the release of the markers a number of days later. In the aftermath of the arrests, SNA weapons marking stalled and only resumed in late June 2015, and then sporadically. On 19 August 2015 weapons marking began again in earnest.

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[11] Resolution 2182 (2014) at paragraph 5.

[12] The marking machine was donated by the Regional Centre on Small Arms in the Great Lakes Region (RESCA). As part of the handover RESCA carried out training of MIS personnel in marking and registration procedures consistent with the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States (2004). The handover of the machine and training of personnel took place on 19 and 20 August 2014.

[13] Approximately 2000 rifles were being stored at the site at the time alongside heavier weapons and ammunition.

[14] Due to the movement of stockpiles the team moved from the Halane armoury to Villa Somalia and Gashandeega (Ministry of Defence) to mark unregistered weapons priory issued to units based there. This approach also allowed the team to deliver instruction to personnel on weapons cleaning and safety alongside marking effort.

9. In late June 2015, upon the invitation of the FGS, a spot check on all of the categories of weapons in stock at the facility found that every weapon examined had been registered in the correct format and the appropriate record keeping completed.[15] By the end of July 2015 the FGS told the Monitoring Group that a total 2480 weapons had been marked at Halane and 406 weapons at Villa Somalia.

10. Nevertheless, significant challenges remain. At the time of writing, the MIS-based marking machine was broken and was awaiting the arrival of spare parts. Registration of weapons had not yet commenced for either the SPF or the custodial corps. Although newly imported weapons were being marked at Halane armoury, registration of other weapons in service – the largest task – had only begun in Mogadishu and then only for a small number of weapons at Villa Somalia.

11. Overall, therefore, despite significant efforts the pace and scope of weapons marking is inadequate in the context of the scale of the task. The insufficient number of marking machines is the primary impediment to the process. Provision of additional marking machines, particularly the mobile types, along with spare parts, is critical. In late August 2015 three Schmidt-type marking machines – appropriate for mobile use – finally arrived in Mogadishu.[16] Although these will facilitate marking in the sectors, vehicles and generators will also be required to get mobile units into the field. With the appropriate support, the FGS intends to dedicate two of the newly arrived machines to mobile teams with the third being shared between NISA and the SPF. The arrival of the new machines has also created an opportunity for additional training of personnel in weapons marking and registration, including for the first time, personnel from the SPF and Custodial Corps.[17] The FGS has indicated that at least four additional marking machines will be needed for the constitution of mobile teams which will focus on the registration of weapons in service across the security services.

Record-keeping and tracking

12. The Council has placed considerable emphasis on the need for the FGS to show tangible progress in weapons marking and registration.[18] Marking and registration however are of little use without effective record keeping, distribution and tracking and verification practices. Progress in these areas was slow, with little change in the situation on the ground during this mandate. As a starting point the

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[15] Phone interview with UN staff member, 31 August 2014.

[16] Email from UN staff member, 31 August 2015. The machines were sourced by UNMAS and are expected to be transferred to the NSA under a right of use agreement.

[17] Email communication with UN staff member, 1 September 2015. It is understood that an additional twelve personnel, two NISA four SPF, two Custodial Corps, one SNA and one civilian from the Office of the NSA will be trained in weapons marking and registration between 13 and17 September 2015. A second training is also planned for October.

[18] In the light of the fact that most weapons will already have serial numbers upon import, and that it consumes some of the best of the SNA's human resources, this emphasis has been questioned by some interlocutors. The FGS view marking as a critical component of tackling diversion of weaponry.

formalisation of weapons flows practices at Halane armoury around weapons management through the documentation of practice should be encouraged. This can then begin to be rolled out to the sectors.

13. As this work gets underway there will also be a need to 'join up' different efforts. Coordination between, common standards for, and integration of, various marking/registration/record-keeping initiatives – such as the initiative conducted at the MIS for private security companies and personnel, and at Halane – should be encouraged. It is understood that RECSA is planning to support the development of centralised record-keeping software for all of the security forces, and that the FGS is considering how best to adapt the system.[19] There have also been discussions around how the system of biometric registration of forces – currently being conducted by the UN Office of Project Services (UNOPS) – might be linked to the nascent weapons card system.[20]

14. Lack of funding for both the comprehensive WAM management project noted above and for the Joint Verification Team (JVT) has significantly hampered progress with respect to this area of FGS compliance.[21]

Unlawful transfer and diversion of weapons from FGS government stocks[22]

15. The Security Council has prohibited the sale, transfer or use of weapons sold or supplied for the development of the security forces of the FGS to or by any individual or entity not in the service of the FGS security forces.[23] Nevertheless since the partial lifting of the arms embargo, the Monitoring Group has documented leakage of weapons and ammunition from Government stocks, most recently in its 2014 report (S/2014/726). This has involved, *inter alia*, the identification of FGS notified imports being offered for sale in illegal Mogadishu weapons markets; evidence that such weapons have been deliberately supplied to clan militia; and the discovery of 'unaccounted for' weaponry and ammunition during WAM surveys. The Monitoring Group continued to document such violations during the current mandate.

16. In September 2014 a baseline survey on arms and ammunition conducted in Baidoa found that 31,415 rounds of ammunition (AK 47, PKM, DShK and SPU) supplied to Sector 3 during 2013 and 2014 were "unaccounted for", in that there were neither records of their distribution nor any arms or

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[19] Phone conversation with UN staff member, 1 September 2015.

[20] As noted above, a weapons card system has been developed but appears only to have been rolled out for private security personnel and civil servants authorised to bear arms.

[21] See annex 7.5 for details on the development of the JVT.

[22] Paragraph 8 resolution 20182 (2014) provides that, "weapons or military equipment sold or supplied solely for the development of the Security Forces of the Federal Government of Somalia may not be resold to, transferred to, or made available for use by, any individual or entity not in the service of the Security Forces of the Federal Government of Somalia.

[23] Resolution 2182 (2014) at paragraph 8.

ammunition observed in the Sector 3 armoury at the time of the survey team's visit.[24] The Head of SNA logistics told the survey team that the ammunition had been distributed to SNA troops on the front line, and that "a separate addendum to address the discrepancies [would] be sent after the operation". The FGS has, however, been unable to provide any additional information to the Monitoring Group on the whereabouts of this ammunition.

17. In March 2015, further to a request from the Monitoring Group, NISA provided photographs of three weapons described as having been used in the attack by Al-Shabaab on the Mogadishu International Airport (MIA) AMISOM protected area on 25 December 2015 and seized in the aftermath.[25] Two of the weapons appeared to be new Type 56-2 Kalashnikov assault rifles. This weapon type was the focus of the Monitoring Group's 2014 investigation (S/2014/726) into leakage from Government stocks of a large FGS weapons and ammunition purchase from Ethiopia.[26] Photographic and testimonial evidence analysed by the Monitoring Group indicated that the new Type 56-2 rifles found in Mogadishu arms markets had come onto the market from SNA stockpiles and had never been seen in the markets prior to the Ethiopian stock delivery in Mogadishu in September 2013. Further the factory markings and sequence of serial numbers on the weapons found in two markets in Mogadishu matched those also seen in FGS stocks at Halane.[27] Finally the Monitoring Group also viewed an Al-Shabaab propaganda video which showed an Al-Shabaab fighter cleaning a brand new Type 56-2 rifle.[28] Although the Monitoring Group was unable to match the partially remaining serial numbers on the two weapons captured in the aftermath of the MIA attack with the serial numbers of the Ethiopia September 2013 shipment, in the light of the Monitoring Groups 2014 findings, and further to a visual comparison of pictures of the weapons, it is highly likely that they come from the same source (see annex 7.1.a).

18. In early September 2015 the Monitoring Group received reliable and credible information from local sources on weapons sales at Bakara market. It was asserted that SNA personnel are among the suppliers of these weapons. A table of the average prices observed is set out below.

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[24] See annex 9, report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), 16 September 2015, /AC.29/2014/COMM.83 attaching, Federal Government of Somalia (FGS) Arms and Ammunition Baseline Survey Phase II: Baidoa, 8 September 2014.

[25] The serial numbers of the two weapons seized had been partially removed; it was also likely that their receiver covers had been replaced.

[26] Annexes 6.1 and 6.2, S/2014/726.

[27] Annex 6.2, S/2014/726 at paragraph 48.

[28] Annex 6.2 (e), S/2014/726

Weapons type	**Price (USD)**	**Price of a round/rocket (USD)**
Dushka (Heavy Machine Gun)	25,000	6
RPG	700	300
PKM	12,000	1.5
AK 47 (original version)	1,500-1,800	1.5 (empty magazine: 30-40)
Makarov (pistol)	1,700	16 (empty magazine: 70)
Tokarev 33 (TT pistol)	1,100	5 (empty magazine : 35)
Grenade (F1)	80	n/a

19. Pursuant to paragraph 8 of resolution 2182 (2014) even a temporary transfer of weapons supplied to support FGS security forces to individuals "not in the service of the Security Forces" is prohibited.[29] Accurate monitoring of compliance with paragraph 8 is, however, complicated by the ever-changing composition of the FGS security forces and its allied militia. First, SNA weapons and ammunition stocks are sometimes shared with militia engaging in joint or allied military operations. The evolution of regional forces allied with the emerging federal architecture which may operate on behalf of the FGS, or in joint operations with the SNA, in advance of formal integration, further adds to the complexity of the situation. Whether such forces can be understood as comprised within "FGS security forces" is a critical question for purposes of application of the arms embargo. In this regard, the scope of FGS reporting requirements in the context of the partial lift includes provision information on "the structure, strength and composition (*including the status of allied militia*) of the Security Forces of the FGS [emphasis added]".[30] Unfortunately this latter information is generally missing from FGS reporting on force structure and composition.[31]

20. In order that the lawfulness of onward distribution of weapons by FGS security forces to allied militia is correctly assessed it is vital that the FGS report periodically, and, ideally, as soon as there are changes, on integration of militia and other forces into its structure. In the absence of such notification onward distribution of weaponry imported under the partial lift to such forces should be considered as unlawful. In addition, establishment of the JVT is an important initiative that will help mitigate the diversion of arms and ammunition to entities outside of the security services of the FGS including by providing greater capacity to trace and investigate leakage of weaponry.

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[29] Resolution 2142 (2014) at paragraph 8.

[30] Resolution 2142 (2014) at paragraph 9(a).

[31] See annex 7.3.

Addressing the challenges of weapons held by private individuals and entities

21. Against the background of over 20 years of conflict and a culture in which use of force was an accepted method of settlement of disputes, there remain an uncounted numbers of weapons in circulation throughout Somalia. Registration and tracking of weapons held by private individuals and entities in Somalia is therefore an important part of an effective WAM strategy. As a starting point, the Small Arms Survey, funded by United Nations Development Program (UNDP), has planned an eighteen month small arms and light weapons survey to generate baseline information on arms, ammunition and armed violence in Somalia; the objective is to determine priorities, prioritize and design programmes, and assess impact of interventions.[32] In terms of the broader legal framework, a revised public order law (originally dating from 1963), adopted by the Council of Ministers, is currently under development, in addition to a Bill on Control of Firearms.[33]

22. One area of private ownership and use of weapons which is already beginning to be more effectively managed and controlled is the operation of private security companies (PSCs). In 2014 further to the issue of a Ministerial directive, the MIS commenced a program of registration and marking of weapons in use by PSCs, in line with a registration process for the companies themselves, and a vetting procedure for their personnel conducted by the Criminal Investigation Division (CID).[34] This process has been very effective with at least 600 weapons now registered and recorded as issued to a specific vetted employee with a particular company identifier. Biometric chip weapons cards have been created for all registered personnel. During 2014 24 companies completed the vetting process and were registered with the Ministry, although it is understood that the registration of only 11 is current.

23. Despite these developments, the increase and evolution in the use of PSCs by private companies, Member States, and even potentially the UN itself, give rise to a number of difficulties in terms of the

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[32] See, Small Arms Survey, presentation, "Somalia National Survey on Small Arms and Light Weapons" 22 June 2015, on file with the Monitoring Group. A small arms and light weapons survey generally seeks to determine "the extent of distribution and impact of small arms and light weapons; public and stakeholder perceptions regarding small arms and light weapons, armed violence and related issues; and the capacity to respond to the challenges posed by small arms and light weapons". The findings of the survey are intended to be presented in November 2016.

[33] A Bill on Control and limitation of firearms was introduced by the Ministry of the National security to the parliament in the last quarter of 2014 (Bill/No. 314, 6.9.2014) but returned to the ministry for review.

[34] See Ministry of Interior and National Security, Draft Private Security Service Providers Regulations 2013, In Reference to Public Order Law No. 21of 26 August 1963 Part VI Articles 63, 64, 65 (regarding private security companies); These companies have also been required to make undertakings relating to monitoring and training of personnel and armoury management. The Monitoring Group understands that in parallel with this process "PSC licences" have also been issued by other authorities such as the Benadir Regional Government, Lower Shabelle Regional Government, the Interim South West Regional Government and Lower Jubba Regional Government (Kismayo). It is not clear what standards are applied for these latter registrations.

application of the arms embargo.[35] In Puntland and Somaliland PSCs are being granted licences to operate including offshore in Somali territorial waters.[36] Depending on the modalities – including scale, how weapons and ammunition are procured, the manner in which personnel are deployed and their framework of operation – these activities may constitute violations of the arms embargo or threats to peace and security more broadly.[37]

Management and tracking of non-lethal military equipment: uniforms of the FGS security services

24. Management and tracking of imported weapons and ammunition has understandably been the focus of FGS efforts and international support. There are other aspects of FGS obligations with respect to receipt and management of military equipment, however, which have critical peace and security implications. The import and management of FGS security force uniforms constitutes one area of concern.

25. Al-Shabaab continues to use uniforms in its attacks. During the current mandate, the Monitoring Group confirmed that Al-Shabaab militants disguised themselves using SNA or other military uniforms during at least five major terror attacks in Somalia.[38] It is understood that concern about misuse of uniforms is one of the reasons that AMISOM does not generally co-locate with the SNA.[39] In addition, the Monitoring Group is aware that military uniforms are routinely employed in a spectrum of crime in Somalia, in particular the establishment of illegal roadblocks, as well as assassinations and armed robbery.

26. In October 2014 an illegal shipment of military materiel was seized by the FGS in Mogadishu port. The majority of the shipment consisted of military clothing including 4,360 military boots 2,960 military uniforms; 3,600 military tea-shirts, 138 "camouflage", 111 female veils and 24,328 meters of military textile.[40] Whether intended for sale generally for use in offensive operations by Al-Shabaab, the scale of this shipment demonstrates the size of the market for military uniforms which exists. Indeed uniforms are readily available in Mogadishu markets to those who wish to purchase them. The Monitoring Group received corroborated information that Somali national army uniforms with the

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[35] Third party monitoring of humanitarian projects, for example, is conducted by companies which have a private security division.

[36] See annex 2.3 on the continued privatisation of Somalia's maritime space.

[37] With respect to armed PSC's entering and operating in Somali territorial waters, the Council has requested the FGS and the Monitoring Group to formulate an exemption proposal pursuant to paragraph 10 of resolution 2182 (2014). See annex 7.6 for a discussion of these developments.

[38] Mogadishu International Airport (25 December 2014); regional presidential palace in Baidoa (12 March 2015); Makka Al-Mukarama Hotel (27 March 2015); FGS Ministry of Higher Education (14 April 2015); and Hotel Weheliye (11 July 2015).

[39] The misuse of AMISOM uniforms as a ruse in a potential attack has also been the subject of intelligence threat information.

[40] See discussion of this shipment at annex 7.4.

Somali flag were available during August 2015 at the Bakara market at an average price of USD 30 and military boots at USD 15. It was also confirmed in early September 2015 that Somali and Ugandan uniforms were being sold in Hamar Weyn district and at a dry-cleaners near the port at an average price of USD 50 for old uniforms, and USD 100 for new uniforms.

27. As a condition of the partial lift of the arms embargo the Council requires the FGS to provide advance notification on imports of non-lethal military equipment, including uniforms. Between 1 August 2014 and 31 August 2015 the FGS and Member States notified the Committee about the prospective import of a large volume of military clothing including, for example, 9,742 military uniforms, at least 20,958 rigid caps, 6,500 helmets, in addition to over 100,000 pieces of underclothing and other uniform elements. The Monitoring Group also received uncorroborated information that in addition to these notified donations a very large number of uniforms—as many as 30,000—may also have been donated without notification.

28. The FGS is obliged to report on the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of such military equipment.[41] The Committee, however, has received no reporting on procedures for the receipt and management of uniforms. It is understood that uniform distribution is controlled via the SNA Deputy Commissioner of Logistics from Villa Baidoa.[42] Police uniforms are kept at the police academy storeroom prior to distribution.

29. With the growing number of actors – national, regional and international – involved in Somalia's proliferating conflicts control of uniforms distribution is essential. It is critical to ensuring identifiable command and control, the creation of civic trust in government security personnel and, not least, to holding those who have been given the right to use force appropriately accountable for adhering to the principle of distinction. The Monitoring Group understands that a new uniform tracking procedure is planned for the SPF. Similar initiatives might be considered in terms of the SNA.

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[41] Resolution 2142 (2014) at paragraph 9(b).

[42] Email from UN staff member, 30 August 2015.

Annex 7.1.a: Two weapons used in the 25 December 2015 MIA attack, juxtaposed with 56-2 rifle photographed on 20 April 2014 at KM5 market in Mogadishu

Figure 1 (below): Rifle used in the MIA attack, being stored at NISA CID

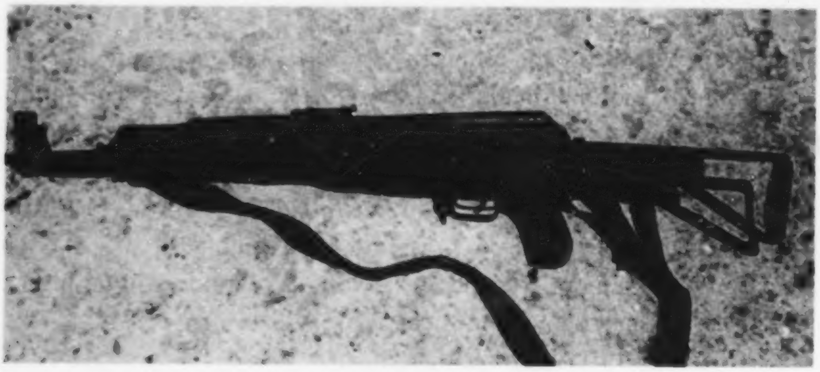


Figure 2 (below): Rifle used in the MIA attack, being stored at NISA CID

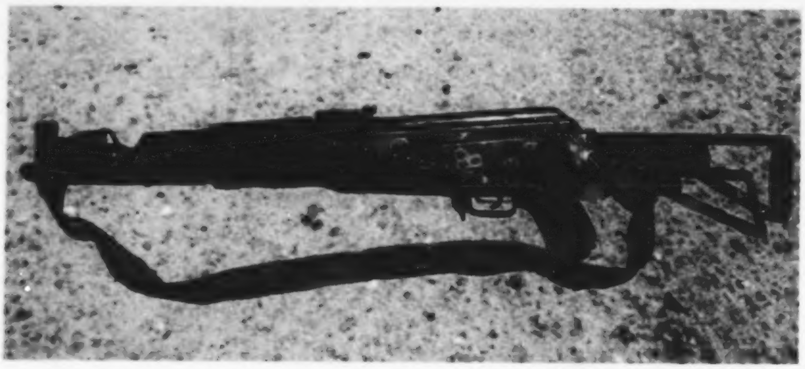
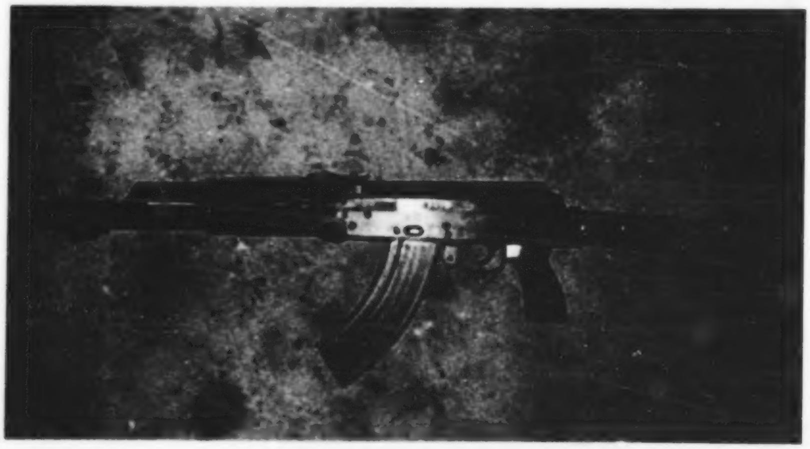


Figure 3 (below): 56-2 rifle photographed on 20 April 2014 at KM5 market in Mogadishu



Annex 7.1.b: SEMG inspection of Halane armoury in Mogadishu, 18 March 2015

Figure 1 (below): Assault rifle being marked at Halane armoury

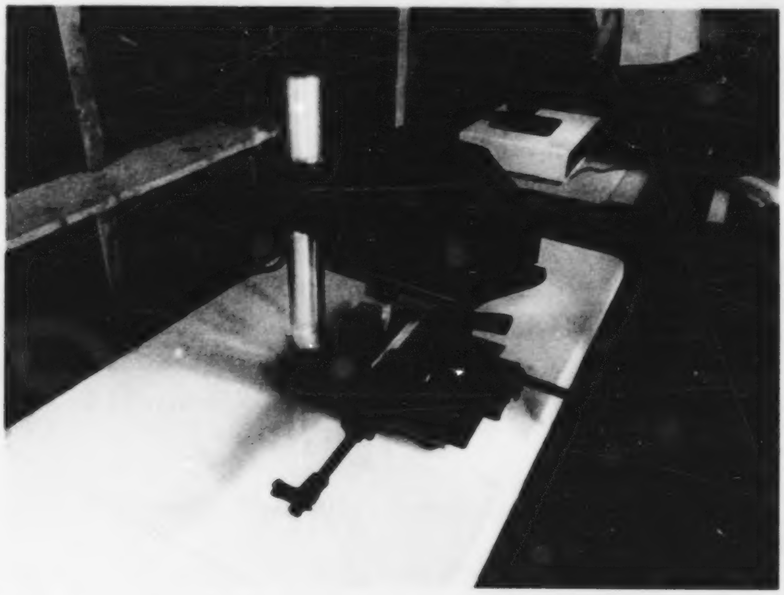
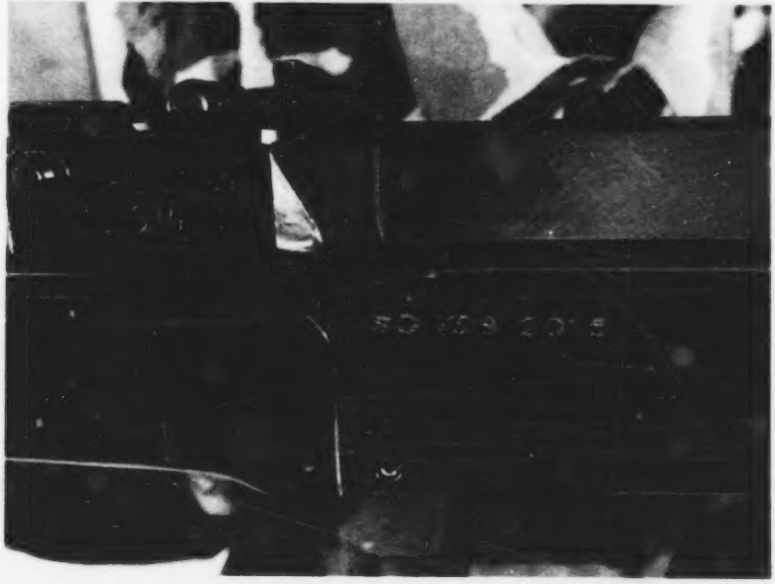


Figure 2 (below): Rifle with "SO XDS 2015" marking. "XDS" indicates that the rifle is intended for use by the Somali National Army (SNA)



Annex 7.2: Compliance with the exemption framework and with notification requirements under the arms embargo

31. Under the arms embargo and partial lift, the Federal Government of Somalia (FGS), Member States and international, regional and sub-regional organisations, all have obligations to notify the Committee when their responsibility is engaged by the transfer of military materiel or assistance to Somalia. The Security Council has repeatedly emphasised the "fundamental importance of timely and detailed notifications to the Committee", including in the context of concerns relating to diversion of arms and ammunition.[43]

32. This annex assesses the compliance of the FGS, Member States and international organisations with both notification requirements and related responsibilities under the standing exemptions to the arms embargo. The Group makes recommendations on where clarification and modification of these obligations might generate greater compliance and ensure that the objectives of the arms embargo are achieved.

Compliance by the Federal Government of Somalia with notification requirements under the terms of the partial lift

33. Under the terms of the partial lift the FGS must notify the Committee, for its information only, at least five days in advance of any deliveries of weapons or military equipment or the provision of assistance intended solely for the development of its security forces.[44] A detailed advance notification, as well as two forms of post-delivery confirmations and notifications to the Committee, must be made.[45] Although the FGS retains the primary obligation to notify the Committee, Member States or the international organisation which responsibilities are engaged by the delivery of the assistance,

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[43] Resolution 2182 at paragraph 2.

[44] Resolution 2093 at paragraph 38. Resolution 2111 (2013) added a requirement that the "specific place of delivery" of the material or assistance must be stipulated.

[45] The current requirements are as follows: Advance notification: At least five days in advance of any delivery of materiel or assistance a notification to the Committee which includes "details of the manufacturer and supplier of the arms and ammunition, a description of the arms and ammunition including the type, calibre and quantity, proposed date and place of delivery, and all relevant information concerning the intended destination unit in the Somali National Security Forces, or the intended place of storage" must be submitted (paragraph 5 resolution 2142 (2014); Post delivery confirmation: No later than 30 days after the delivery of arms or ammunition, the FGS must submit to the Committee a written confirmation of the completion of the delivery, including "the serial numbers for the arms and ammunition delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage" (paragraph 6 resolution 2142 (2014)). Post distribution information: Within five days of the distribution of imported arms or ammunition, the FGS must inform the Committee in writing of the "destination unit in the Somali National Security Forces or the place of storage" (paragraph 7 2142). See also Guidelines of the Committee for the Conduct of its work as consolidated, revised and adopted by the Committee on 30 March 2010, 30 May 2013, 27 November 2013 and 25 March 2014, paragraph 10 (l), (m) and (n).

may also make the advance notification "in consultation" with the FGS.[46] Post delivery reporting remains the sole prerogative of the FGS.

34. The Council has emphasised that extension of the partial lift of the arms embargo is conditional, *inter alia*, on FGS fulfilment of its notification requirements.[47] The Monitoring Group reviewed notifications relating to support for the FGS security forces received by the Committee between 1 August 2014 and 31 August 2015. As part of this review the Group shared a table of notifications and analysis of gaps with the FGS National Security Advisor (NSA), providing an opportunity to his Office to update the information and to consider making appropriate, albeit out of time, notifications to the Committee.

35. Overall there was a significant improvement in the timeliness and comprehensiveness of notifications, particularly with respect to advance notifications. The Monitoring Group believes that ongoing challenges with respect to advance notifications are less a matter of willingness, than capacity or inadequate sharing of information with the Office of NSA, whether by FGS security forces internally, or by donors themselves.

36. The Committee received thirteen advance notifications from the FGS pursuant to paragraph 3 of resolution 2142 (2014)[48] in parallel with six notifications of the same shipments by Member States pursuant to paragraph of 4 resolution 2142 (2014).[49] Eleven advance notifications were made solely by Member States or an international organisation pursuant to paragraph 4 resolution 2142 (2014). The quality and timeliness of the FGS advance notifications improved: ten out of thirteen of the advance notifications submitted by the FGS arrived within the correct time period and contained the full information required by the resolutions.

37. The quality and timing of post-delivery confirmations and distribution information notifications—for which FGS has sole responsibility in terms of notification to the Committee—was, however, poor. There were 6 occasions on which post-delivery confirmations were required. Only

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[46] Resolution 2142 (2014) at paragraph 4.

[47] See, *inter alia*, resolution 2182 (2104)", any decision to continue or end the partial suspension of the arms embargo on the FGS will be taken in the light of the thoroughness of the FGS's implementation of its requirements as set out in this and other relevant Security Council resolutions", preamble.

[48] In some cases, due to the timing, advance notifications lacked the necessary detail to fulfil Security Council requirements. Some of these were rectified with subsequent notifications. Two advance communications were received from the FGS with respect to one particular shipment, including very near the time of scheduled delivery. In all these cases only one advance notification was counted. In some cases one single advance notification was received for multiple shipments.

[49] Although this does not pose a problem in itself, in the context of scare resources at the Office of the NSA it is recalled that the FGS does not need to notify where a Member State has already done so. It may be that enhanced communication between Member states and the Office of the NSA will reduce the burden and make clear when the FGS primary obligation to notify has been fulfilled "in the alternative" by the Member State.

arms and ammunition – and not other forms of military equipment, training or other assistance – require notification to the Committee post-delivery. Only two such shipments, however, were the subject of post-delivery confirmations by the FGS, both of which were received late, and one of which related to material which had been notified as received prior to August 2014, but in respect of which a complete post-delivery confirmation could not be made until October 2014.

38. In both of these cases issues with the engagement of the donor state were cited for the delay. Although serial numbers – a requirement of post-delivery confirmations – were provided to the Committee for both shipments, with respect to one, only partial lists could be offered as weapons serial numbers had been removed prior to import. As a result, a marking exercise had to be undertaken by the FGS before the conditions for a post-delivery notification could be met. The Committee has not yet received the serial numbers for the remainder of the weapons.[50] In late August 2015, however, the Office of the NSA told the Group that the weapons had been marked and that the numbers would shortly be communicated to the Committee. It was commendable, however, that some of the information provided in FGS notifications communications went beyond what was required, including, for example, listing the names of the personnel to whom each numbered weapon had been issued. Finally, although described as post-delivery confirmations, these two communications to the Committee contained sufficient categories of information—albeit only partially complete—to serve the post distribution information requirement.

39. The three other post-delivery notifications received by the Committee from the FGS were not in fact required as the deliveries did not involve arms or ammunition, but rather training, uniforms, vehicles or other equipment.[51] These confirmations included in some instances very detailed information such as serial numbers of items and vehicle chassis numbers.

40. No post-delivery or post distribution confirmations or notifications, however, were received in respect of the four other weapons and ammunition deliveries which were notified to the Committee and intended to arrive between 1 August 2014 and 31 August 2015. The Monitoring Group had observed some of these weapons in the Halane arms stores during its March visit. The FGS advised the Group in late August 2015, however, that due to problems with an Ethiopian weapons shipment there had been returns and subsequent re-stocking. Ethiopian sourced ammunition had already been

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[50] The FGS has undertaken in a letter to the Committee that the, "[r]emaining 157 unmarked assault rifles which were assigned to NISA agents located in the periphery regions will be completed soon and reported back to the Committee", S/AC.29/2014/COMM.107, transmitted to the Committee, 24 October 2014, S/AC.29/2014/NOTE.61/Add.

[51] One of these post delivery notifications was in fact not required as it related to delivery of training and not to arms and ammunition. In one case the FGS submitted two advance notifications, with the latter providing details of an imminent shipment: but a post delivery notification did not follow. It may be that the latter was assumed, erroneously, to suffice.

distributed. The Monitoring Group understands that further to finalising the marking a full account of the arrival, return, and re-delivery of the Ethiopian weapons purchase will be made.

Summary table of notifications

Requirement	**FGS**	**Member State/International Organisation**
Advance Notifications	13	17 (6 in parallel to FGS notifications and 11 pursuant to paragraph 4 resolution 2142)
Post delivery Confirmations	2 of 6 required	N/A
Post distribution Information	2 of 6 required	N/A

Assistance to FGS security forces not notified to the Committee

41. The FGS did not notify to the Committee all assistance it received. It was publically reported in May 2015, for example, that the United Arab Emirates (UAE) had funded the construction of a military training centre which was formally opened by the President in Hodan District in Mogadishu.[52] In August 2015 a tweet by the Ministry of Internal Security described a ceremony at which the Japanese Government donated 56 military vehicles.[53]

Enhancing compliance

42. The current official procedure for import of weapons and ammunition and other forms of military equipment or assistance involves:

(a) import authorisation from the Ministry of Defence, in consultation with the Ministry of Finance, under the overall authority of the President;

(b) import of the materiel by the SNA (further to appropriate notifications to the Office of the NSA for onward notifications to the Committee);

(c) distribution to other security agencies, with notification to the Office of the NSA.

43. Halane armoury, located in the MIA protected area, is the designated repository and processing depot for all imported arms and ammunition. This procedure is not always followed. In one instance

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[52] See, for example, Jowhar.com, Somali President opens National Army Training Camp built by UAE in Mogadishu, available at http://www.jowhar.com/somali-president-opens-national-army-training-camp-built-by-uae-in-mogadishu/.

[53] Tweet from @MoIS_Somalia, 9 August 2015.

during the reporting period, material was shipped and distributed to the Rapid Reaction Team of the police, via the Police Commander of the Police Academy. Although the supplying state had notified the Committee of the donation it is not clear what communication, if any, police personnel had with the Office of the NSA.[54] As noted by the Monitoring Group in its 2014 report (S/2014/726), the timeliness and accuracy of notifications continues to be affected by the fact that individual security forces sometimes liaise directly with donors.

44. With improved arms and ammunition management in Somalia considered "a fundamental component of greater peace and stability for the region", the Council has explicitly encouraged Member States to assist the FGS in improving its compliance with the arms embargo and the system of notifications to the Committee.[55] As noted above a Member State may choose to make the advance notification to the Committee "in consultation" with the FGS.[56] The Council has also recognised the value of supplying states submitting post delivery information—similar to that which the FGS is required to provide to the Committee in its 30 days post-delivery notification—"in cooperation with" the FGS.[57] Where such notifications were not made, the provision by Member States to the FGS of complete—and translated—information on planned shipments made it easier for the Office of the NSA to extract the correct details for making a formal notification for the Committee. Requests for the generation by the FGS of official documents prior to shipment such as end user certificates, or the conclusion of cooperation agreements as a framework for the transfer, also contributed to supporting the FGS ability to fulfil its notification requirements.

45. Some Member States, however, neglected to appropriately consult with the FGS on donations. Some sent shipments without prior notice, impeding timely FGS notification of deliveries and rendering the supply in violation of the arms embargo. Others failed to provide sufficient documentation to facilitate FGS compliance with advance notifications, or provided partial shipments, second hand or faulty equipment, or unmarked weapons.

46. The primary obligation with respect to notification rests with the FGS.[58] There are a number of areas however were donor States might assist the FGS to put itself in a better position to fulfil its obligations. The first would be to consider notifying the Office of the NSA of prospective assistance to FGS security forces, notwithstanding parallel discussions or agreement with particular forces. Indeed the Security Council, upon the request of the FGS, has already suggested to Member States that "all deliveries of military equipment and notifications should be coordinated through the Office

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[54] The obligation on supplying state is to notify the Committee "in consultation with" the FGS, but there is no stipulation as to which entity it much consult.

[55] Resolution 2182 (2014) at preamble and paragraph 2.

[56] Resolution 2142 (2014) at paragraph 4.

[57] Resolution 2142 (2014) at paragraph 6; this occurred in two instances during the mandate.

[58] With the exception of certain restricted material pursuant to paragraph 7 of resolution 2111 (2013).

of the National Security Adviser".[59] Second, the FGS has indicated that it would be optimal if all deliveries were addressed initially to the central Halane armoury for import delivery inspection, prior to onward distribution to the appropriate force or unit. Third, where a Member State notifies the Committee of an intended export to Somalia a copy should be provided to the Office of the NSA, including to avoid FGS duplication of the procedure: in any event the resolutions require that any notification by a Member State or an international organisation must be done "in consultation with" the FGS.

Compliance by Member states and international, regional and sub-regional organisations with notification obligations

47. Outside the context of the partial lift enjoyed by the FGS and its security forces, Member States and international, regional and sub-regional organisations also have obligations to notify the Committee. There are three categories of notification through which such obligations are fulfilled:[60]

- requests for the Committee's approval pursuant paragraph 7 of resolution 2111 (2013);
- notifications for the Committee's consideration pursuant to paragraph 11 (a) of resolution 2111 (2013);
- notifications for the Committee's information pursuant to paragraph 10 (g) of resolution 2111 (2013).

Requests for Committee's approval

48. Under paragraph 7 of resolution 2111 (2013) certain types of military equipment destined for the support of FGS security forces must be approved by the Committee in advance of their import.[61] Between 1 August 2014 and 31 August 2015 two such requests were submitted by Member States for Committee's consideration and were approved.

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[59] Security Council Presidential statement, 22 May 2014, S/PRST/2014/9.

[60] For details on procedures and the scope of these requirements see Guidelines of the Committee for the Conduct of its work as consolidated, revised and adopted by the Committee on 30 March 2010, 30 May 2013, 27 November 2013 and 25 March 2014 (hereafter, Committee Guidelines) at paragraph 10.

[61] Detailed information must be provided in the notification, including: the type, quantity and technical specification of weapons, ammunitions, military equipment and materiel to be delivered; the means of transport to be used for the supply of the equipment; □the proposed date of delivery; □the specific place of delivery in Somalia. A five-day non-objection approval process applies. See, Committee Guidelines, paragraph 10 (d) and (e).

Notifications for Committee's consideration

49. Paragraph 11(a) resolution 2111 (2013) provides a modality for Member States and international organisations to provide support to security entities not under the command of the FGS.[62] In paragraph 11(a) the Council decided that the arms embargo would not apply to "[s]upplies of weapons or military equipment and technical assistance or training by Member States or international, regional and sub-regional organizations intended solely for the purposes of helping develop Somali security sector institutions". Committee's consideration under a five-day non-objection procedure was, however, required. Between 1 August 2014 and 31 August 2015 only one notification for Committee's consideration was received from a Member state pursuant to paragraph 11(a). This concerned provision of non-lethal assistance to the Puntland police force.[63]

50. International and sub-regional organisations have also provided support and assistance to "other Somali security sector institutions" during the mandate. Between 1 August 2014 and 31 August 2015 two notifications for Committee's consideration were made by international organisations, both in relation to non-lethal support (training, spare parts for engines etc,).[64] The Monitoring Group has, however, documented a series of occasions on which assistance was not notified. It is clear that not all UN bodies are aware of the range of circumstances in which notification to the Committee is required, particular where the assistance is in the form of infrastructure construction and refurbishment, training or provision of uniforms.

51. Similarly the Monitoring Group notes that assistance – both lethal and non-lethal – continues to be sought and provided by Member states to "Somali security sector institutions" not under the control of the FGS.

52. On 28 May 2015, for example, the FGS drew the Committee's attention to a potentially unlawful delivery of a significant volume of military equipment from the UAE to Kismayo and the Interim Jubba Administration (IJA).[65] Images seen by the Monitoring Group show the IJA President Ahmed

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[62] The information submitted as part of the notification for consideration must include: the type and technical specification of the equipment and/or technical assistance and training; the intended recipient and end-user of the equipment and/or of the technical assistance and training; the means of transport to be used for the supply of the equipment; the port of entry into Somalia. See Committee Guidelines paragraph 10 (g) – (j) inclusive.

[63] Two other notifications were made by international organizations for training and non-lethal equipment.

[64] Not all communications to the Committee were timely or in the correct format. In one of these cases although a communication was made to the Committee it was not made in the correct form and ultimately was not circulated as a 'notification for Committee's consideration' but as a general communication.

[65] See FGS letter to the Committee 28 May 2015, S/AC.29/2015/COMM.33 (S/AC/29./2015/NOTE.34). The FGS letter expressed regret that the Somalia government was not provided with "prior notification of the delivery as specified in paragraph 5 of 2142 (2014)" and stated that it would "immediately request Interim Jubba Administration and the Government of UAE to provide a comprehensive inventory listing of the equipment delivered to IJA on May 25th"; the arrival of shipment was widely publicised.

'Madobe' receiving the vehicles at Kismayo port on 25 May 2015, including RG-31 type armoured mine-protected personnel carrier vehicles and Toyota pick-up trucks.[66] The Committee had not received any notification for its consideration of this shipment.[67] The Monitoring Group has also received credible reports of the import of small amounts of weaponry by other Interim Regional Administrations.

53. Numerous sources have confirmed that Member State support has been extended to some of Puntland's security institutions such as, for example, the Puntland Marine Police Force (PMPF). The President of Puntland, Abdiweli Mohamed 'Gaas' has openly called for support in the form of military equipment from the international community in order to continue his forces fight against Al-Shabaab in the Galgala mountains.[68] Somaliland has also announced plans to create an Oil Protection Unit (OPU) to protect commercial oil operations; the OPU would be drawn from its police and military forces, and trained and coordinated by a private security company in collaboration with international oil companies.[69]

Notifications for Committee's information

54. Member States and international organisations also have an obligation to notify "supplies of non-lethal military equipment intended solely for humanitarian or protective use" under a 'for information' procedure pursuant to paragraph 10 (g) of resolution 2111 (2013).[70] Purely private entities do not have standing to notify the Committee where their responsibilities are engaged by the arms embargo. They can, however, violate the terms of the embargo if notification is not made in connection with the proposed import by a Member State or appropriate international organisation. Between 1 August 2014 and 31 August 2015, nine notifications for information pursuant to paragraph 10 (g) were received from Member States and international organisations, primarily for the

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[66] Pictures of the reception of the shipment and the vehicles are attached in annexes 7.2 .a and 7.2.b. Pictures from public domain and FGS letter to the Committee 28 May 2015, S/AC.29./2015/COMM.33.

[67] The Monitoring Group wrote to the UAE on 10 August 2015 recalling its obligations relating to notification and requesting additional information on the shipment but had not received a reply by the time of reporting. See letter dated 10 August 2015 from the Coordinator of the Monitoring Group addressed to the Permanent Representative of the UAE to the UN in connection with UAE support to Somali security sector institutions, S/AC.29/2015/SEMG/OC.36, transmitted to the Committee 12 August 2015 via S/AC.29/2015/NOTE.58.

[68] See also "Priority Need of Puntland Defense Forces", 12 March 2015, on file with the Monitoring Group.

[69] Further to concerns expressed by the Monitoring Group in its 2014 reporting (S/2014/727) Somaliland authorities have been engaging with the Group on the process for seeking approval from the Security Council for the supply of assistance the Unit.

[70] Para 10 (g) notifications must be submitted in writing to the Chair five days in advance by the Member State, international, regional or sub-regional organisation supplying the equipment, and shall provide the following information: (i) the type and technical specification of the equipment; the intended recipient and end-user of the equipment; (ii) the humanitarian or protective use to which it will be put; (iii) the means of transport to be used for the supply of the equipment; (iv) the port of entry into Somalia. See Committee Guidelines, paragraphs 10(o) and (p).

benefit of private entities, including NGOs engaged in humanitarian work, or companies operating in the area of private security.

Improving compliance of Member States and international organisations with notification obligations

55. The Security Council has stressed "the need for all Member states to respect and implement, in accordance with relevant Security Council resolutions, their obligations with respect to preventing unauthorized deliveries of weapons and military equipment to Somalia".[71] Nevertheless, as noted above, on a number of occasions during the mandate, Member States and international organisations failed to abide by the obligation to notify supplies of assistance and material to "Somali security sector institutions" for Committee's consideration pursuant to paragraph 11 (a) of resolution 2111 (2013). It is clear that there is considerable confusion about the scope of paragraph 11(a).[72]

56. First, there seems to be some uncertainty as to whether in addition to provision of lethal assistance such as arms and ammunition, assistance in the form of building of infrastructure or training or payment of security service salaries also requires approval from the Committee through a five working day 'non-objection procedure'. At a minimum there is a need for awareness raising on the existence of the obligation to both notify and seek the Committee's consideration of lethal and non-lethal assistance to non-FGS "security sector institutions". The Council might wish to recall and reiterate that obligation in its next resolution addressing the arms embargo.

57. Second, there is also ambiguity surrounding the scope of the phrase "Somali security sector institutions", in particular in the context of the evolution of the federal architecture. Based on Committee practice, paragraph 11(a) resolution 2111 (2013) is applicable in the context of support to the security forces of Puntland and Somaliland. The Council has not, however, received notifications for consideration with respect to receipt of support by other entities. Greater clarity is needed, for example, on the applicability of paragraph 11(a) to the security forces of the Interim Regional Administrations. Unfortunately, the Council has not been given an opportunity to make an interpretative determination on this issue.

58. With claims to legitimacy by regional forces outside the FGS force structure, in addition to declarations of statehood challenging the federal architecture, clarity on which entities can lawfully receive supplies of materiel pursuant to paragraph 11(a) will be increasingly important.[73] The Monitoring Group recommends that the Council encourage Member States to engage with the

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[71] Resolution 2182 (2014), preamble.

[72] Conversations between Monitoring Group and staff of UN entities, diplomatic missions and international non-governmental organisations during the mandate.

[73] See discussion on the composition of FGS and allied forces in annex 7.3 including the recognition that even after integration of the SNA certain regional forces will remain outside central FGS command. The picture is complex: currently some regional coastguards, outside those of Puntland and Somaliland, operate outside FGS command.

Committee and actively seek the Guidance of the Committee in specific instances when they propose to support "Somali security sector institutions" outside those of the FGS.

59. One of the challenges to effective Committee oversight of the provision of military equipment and other assistance to "Somali security sector institutions" under paragraph 11 (a) is that unlike with respect to FGS security forces, there is no information provided to the Committee on their structure, composition and assistance needs. The Committee might wish therefore to consider modifying the range of information required when submitting a notification for Committee's consideration as stipulated in paragraph 10(h) of the Guidelines of the Committee for the Conduct of its Work. Such information could include, for example, descriptions of structure of the concerned security entities (including political and military command and control), disposition, scope of operations and an overview of lethal and non-lethal equipment needs. Entities currently subject to potential exemption under paragraph 11(a) have prepared similar assessments, albeit outside the context of notifications to the Committee.

60. It is vital that the Committee has a genuine opportunity to exercise effective oversight and control of weapons and assistance flows to "security sector institutions" outside FGS security forces: not only does the "development" of a parallel security architecture outside that of the FGS itself raise questions about long term peace and security, but the interaction of the operation and disposition of such forces with the international effort to support "the security forces of the FGS"— the *raison d'être* of the partial lift—must be considered.

Standing exemptions to the arms embargo

61. In addition to the exemption arrangements discussed above, the arms embargo contains a range of standing exemptions which apply to the supply of certain materiel to specific entities and for particular purposes.[74] These standing exemptions primarily facilitate the smooth operation of

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[74] As resolution 2111 (2013) confirmed, the arms embargo does not apply to the supply of the following materiel: supplies of weapons or military equipment or the provision of assistance, intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM) (paragraph 10 (a)); supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the African Union Mission in Somalia (AMISOM) (paragraph 10 (b)); supplies of weapons or military equipment or the provision of assistance intended solely for the support of, or use by, AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM (paragraph 10 (c)); supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the European Union Training Mission (EUTM) in Somalia ((paragraph 10 (d)); supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only (paragraph 10 (f)). There is one additional exemption that requires a form of notification to the Secretary General and relates to entities "undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia" (paragraph 10 (e) resolution 2111 (2013).

AMISOM, the European Union Training Mission (EUTM) in Somalia, UNSOM, AMISOM's "strategic partners", and humanitarian, media and development workers.

62. The Monitoring Group notes that during the mandate the number and scale of international and Somali actors which are engaged in the third phase of the anti-Al-Shabaab offensive, has grown. One question which has arisen in terms of understanding whether the supply of certain military equipment into Somalia falls within the standing exemptions to the embargo relates to the understanding and identification of the scope of "AMISOM's strategic partners". Paragraph (c) of resolution 2111 (2013) provides for an exemption for material "intended solely for the support of, or use by, AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM".

63. There have been both public and internal discussions around the extent to which some Member States forces' have been engaged in military operations on Somali territory which have not been conducted "solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM", in particular elements of the Jubba Valley operation in July and August 2015.[75] Although, as AMISOM troop contributing countries were among those participating, cooperation at contingent level is assumed. Further it is clear that, on the ground at the local level, SNA personnel are involved in joint operations with these forces, alongside local and regional militia and other forces. The lack of clarity surrounding the framework for, and command of, these operations, not only raises questions regarding violation of the arms embargo, it also has implications for other areas of the sanctions regime.

64. Neither the Committee nor the FGS has any oversight over the volume or nature of the military equipment imported into Somalia under the standing exemptions, including that distributed onwards to other actors acting "in support of" operations. In contrast with the stringent weapons and ammunition and equipment import and tracking obligations imposed on the FGS under the partial lift, these provisions therefore potentially authorise wide distribution of limitless arms and ammunition. In light of previous Monitoring Group reporting on the leakage of weapons from AMISOM stocks, for example, this "blind-spot" in the Committee's visibility on arms flows into Somalia is of concern to the Monitoring Group.

65. In this context, the Security Council has specifically condemned the flow of weapons to "armed groups which are not part of the security forces of the Federal Government of Somalia", expressing "serious concern at the destabilizing impact of such weapons".[76] In the short term, the strategy of

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[75] Discussions with individuals present at the AMISOM CONOPS review in Nairobi, August 2015; see, also, statements by the Commander of the AMISOM's Fourth Division Colonel Abdirahman Abdi Dhimbil questioning whether some of the troops engaging in operations in Hiran were operating under AMISOM command, reported by www.hiiraanonlinenews.com, 17 August 2015.

[76] Resolution 2182 (2014) at paragraph 14.

engaging a variety of force multipliers in the conflict against Al-Shabaab, or providing support to regional entities to enhance stability through a turbulent federalisation process, may be practical. In the long term, however, it can encourage greater fragmentation of the emergent security sector and sow the seeds of instability. For example, after the FGS planned process of demobilisation and integration of forces under Federal command is completed, it is foreseen that the, "lawful regional authority" may establish regional security forces under their control.[77] The current evolution and legitimisation of regional forces allied with the emerging interim regional administrations – and their receipt of support from the international community – is pre-empting this picture. In one SNA sector the Monitoring Group was told that soldiers were 'defecting' to the regional *darawish* command – which received international support – due to better pay and conditions.[78]

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[77] See, FGS, Strategic framework for the management of security forces and militia integration and demobilisation, draft 1 February 2015, on file with the Monitoring Group.

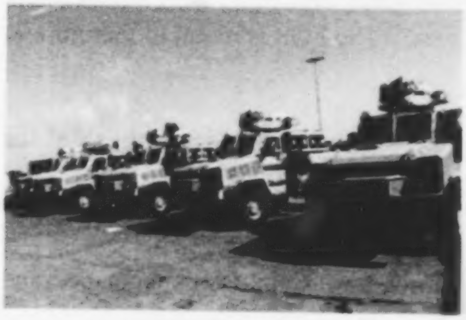
[78] Telephone interview with expert with knowledge of the security sector, 12 August 2015.

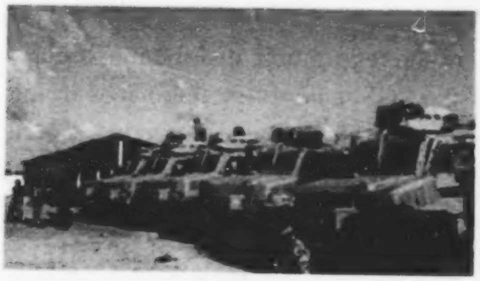
Annex 7.2.a

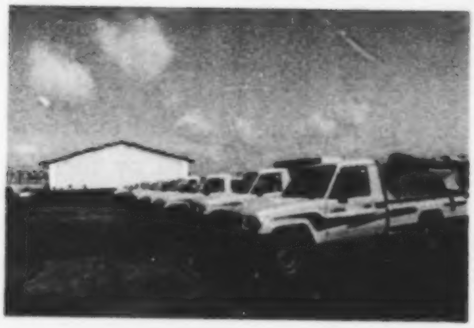
Armoured vehicles received by the Interim Jubba Administration at Kismayo Port

Annex 7.2.b

Photographs of armoured vehicles and pick-up trucks







Annex 7.3: Federal Government of Somalia compliance with reporting requirements under the arms embargo partial lift

66. With the partial lifting of the arms embargo in resolution 2093 (2013), the Security Council sought increased visibility on the composition, structure and weapons and equipment management capacity of Federal Government of Somalia (FGS) security forces.[79] The FGS is required therefore to report to the Security Council every six months on:

(a) the structure, strength and composition (including the status of allied militia) of the Security Forces of the FGS, including the names of current commanders, the locations of the headquarters, and the status of militias;

(b) the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Security Forces of the FGS, including details of all available armouries and storerooms, their location, storage capacity, staffing capacity, arms and ammunition management systems and status of use; and

(c) the procedures and codes of conduct in place for the registration, distribution, use and storage of weapons by the Security Forces of the FGS, and on training needs in this regard, including procedures for receipt, verification and recording of weapons imports through any Federal Government controlled port of entry, procedures for the transport of weapons and ammunition with the Security Forces of the Federal Government of Somalia.[80]

67. FGS reporting requirements were designed, *inter alia* to improve transparency in the stockpiling, accounting and distribution of weapons and ammunition of the Somali National Army (SNA) and to allow Member States to target assistance to Somalia's Security Forces in a more systematic and informed manner.

68. In S/2014/726 the Monitoring Group noted that there had been some improvement over time observed in the FGS first four reports, particularly as a result of support provided by the UN Assistance Mission in Somalia (UNSOM) and its international consultants.[81] However, there continue to be significant gaps in the information provided when assessed against Security Council

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[79] Resolution 2093 (2013 at paragraph 39. Resolution 2142 expanded on the level of detail required in this reporting.
[80] Resolution 2142 (2014) at paragraph 9.
[81] Annex 6.1, paragraph 19, S/2014/726.

requirements, both in terms of comprehensiveness and detail. This applies particularly to reporting on the structure, strength and composition of the security forces of the FGS.[82]

69. The FGS's 5th report was transmitted to the Committee on 18 September 2014.[83] In terms of force *structure and personnel* the report recorded a number of minor developments such as changes in the command of the National Intelligence and Security Agency (NISA) and the Somali Police Force (SPF) and the delivery of external training in Italy, Sudan, Turkey, Uganda, and the United Arab Emirates.[84] FGS weapons and ammunition management was described as "progressing rapidly" with the arrival and handover of a marking machine and the delivery of related training a significant breakthrough.[85] It was also reported that the Ministry of National Security had developed an electronic weapon ID card and licensing system for all personnel registered to carry a weapon.[86] With respect to WAM *physical infrastructure* the report noted that in cooperation with the Mines Advisory Group (MAG) construction had been completed on four armouries, with more planned.[87] Perhaps the most significant development recorded was the conduct of arms and ammunition surveys in Mogadishu, Baidoa, and Belet Weyne.[88] The texts of the findings of two of the surveys (Baiodoa, 10 June 2014 and Belet Weyne, 8 September 2014) were reproduced in annexes 8 and 9 of the reporting.[89]

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[82] At the same time, the reporting does include a range of additional information, not strictly required by the provisions of resolutions 2142 and 2182, which contributes to overall understanding of the challenges facing, and potential needs of, FGS forces. A third report is due to be submitted by 30 September 2015.

[83] S/AC.29/2014/COMM.83 dated 13 September, transmitted to the Secretariat on 16 September 2014.

[84] Along with information that an SNA training directive was being developed it was also noted that a *Ministerial Guidance on the Defense Policy for the year 2014 – 2016*, had been issued.

[85] The report did note, however, that a second UNMAS procured marking machine had "not yet [been] delivered".

[86] This system involved "providing an electronic card with a biochip for each weapon registered to a bearer, who will be the sole individual registered to carry that particular weapon". A database and a mobile card reader facilitated tracking and verification.

[87] Additional support needs were the focus of a 26 August 2014 meeting of the Weapons and Ammunition Management (WAM) Technical Working Group where there was discussion and review of the technical work plan on WAM physical security and stockpile management. Minutes of the meeting were attached in annex 7 of the report.

[88] As described in the report, "[t]he objective of the baseline survey is to assess arms depots and storage facilities as well as associated logbooks of the SSF; review all relevant documents associated with the receipt and distribution of arms and ammunition; quantify and identify the types of arms and ammunition in the stockpiles of the SSF and also ascertain the destination of the imported arms and ammunition". The conduct of a "baseline" survey was a recommendation to the National Security Advisor by the Secretary-General in S/2014/243, although the scope and focus intended was considerably broader.

[89] The Mogadishu baseline was completed on 3 May 2014 and shared with the Committee in the report of the Federal Government of Somalia submitted pursuant to paragraph 9 of resolution 2142 (2014), S/AC.2912014/COMM.53.

70. The FGS submitted its 6th paragraph 9 report to the Committee on 30 March 2015.[90] There reportedly continued to be no "major changes" in the structure and strength of the security forces since the previous September and June 2014 reports[91] save new appointments and some minor changes in the internal divisional arrangements at the SPF and NISA.[92] In terms of *weapons marking, registration and accountability*, it was reported that UNSOM and UNMAS had trained 12 SNA personnel in weapons registration, marking, and record keeping. With respect to captured weaponry, item lists from three caches of weapons, ammunition and other equipment respectively seized in Mogadishu, in Bulo marer, and at Mogadishu port, were provided, with reference to FGS obligations under "paragraph 6".[93] Progress was also reported with respect to enhancement of WAM *physical infrastructure* through the construction of 12 armouries (at unspecified locations) in Mogadishu and pending construction of others.[94]

71. Both the September 2014 and March 2015 reporting contained updates on Al-Shabaab's intent and capacity with the former encompassing a review of the impact of operations Eagle and Indian Ocean.[95]

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[90] S/AC.29/2015/COMM.21 dated 30 March 2015.

[91] The report in particular referred to annexes 4 to 7 of the FGS June reporting (S/AC.29/2014/COMM.53) for SNA structure and function and to the September 2014 reporting (S/AC.2912014/COMM.53) for that of the Custodial Corps.

[92] These include an enlargement of the structure and functions of the National Intelligence and Security Agency to include five new units within the Intelligence Division – including a team dedicated to counter-intelligence tasks and a team dedicated to regional analysis – as well as the expansion of the Supply and Logistics Division to incorporate an Internal Security unit. The conduct of a variety of training for security forces by international partners was also described, including on explosive and weapons safety, the human rights due diligence policy, military leadership and various military specialisations, and weapons identification and tracking training for NISA.

[93] Paragraph 6 of resolution 2182 requires the FGS and AMISOM to "document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates, including recording the type and serial number of the weapon and/or ammunition, photographing all items and relevant markings and facilitating inspection by the SEMG of all military items before their redistribution or destruction". See discussion in annex 7.1.

[94] The Mines Advisory Group (MAG) had led this work in cooperation with the FGS and had also carried out training for three storekeepers and one armoury manager.

[95] An overview of meetings conducted by the SEMG with the FGS during its visit to Mogadishu between 17 and 19 March 2015, was also appended in annex 7 to the March reporting (S/AC.29/2015/COMM.21).

Assessment of FGS reporting[96]

Structure, strength and composition of forces[97]

72. Clarity on the composition of the security forces is instrumental in the implementation of the arms embargo partial lift and exemption regime through identifying who is entitled to receive arms, other assistance, and under what conditions. It is also the precondition for an effective weapons and ammunition management (WAM) system. Although a detailed security forces organogram was provided by the FGS–with minor updates since the last provision of a full organogram in June 2014—there are a number of gaps which impede an accurate description of FGS security forces scope and composition.

73. First, there are units of FGS forces, including those receiving international support, which are not identified, or not identified with sufficient precision. These include the Mogadishu maritime police/ incipient Somali coastguard and specialist divisions of the National Intelligence and Security Agency (NISA), the SNA, and the Somali Police Force (SPF). The former have received UN and bilateral assistance, including some notified to the Committee. The latter have also received targeted support and mentoring from AMISOM and Member States and are regularly mentioned in public media reports. During the mandate, for example, support to the SPF Rapid Reaction Team, for example, was notified to the Committee. The unit does not appear, however, in the latest police structure provided to the Committee.

74. Second, FGS reporting continues to assert that there has been no change in the strength of forces since June 2014. It is unlikely that there has been zero recruitment, particularly in the sectors. The scale up in recruitment during the first phase of the anti-Al-Shabaab offensive offensive was well documented—including in the FGS's own reporting. Since then the second and third phases of the offensive have gotten underway, alongside recovery of significant territory. The SEMG has received a range of reports on ongoing SNA recruitment and training and weapons distribution. On 9 March 2015, for example, in Huduur the local authority and the SNA were reported to have distributed 270 AK47s for "newly trained" soldiers who were described as "the last batch of SNA soldiers trained in the town for deployment in Bakol.[98]

75. The other cross-cutting area of force structure, strength and composition which requires greater elaboration is the integration of militia and regional forces. In its March 2015 report, the FGS

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[96] As required by paragraph 12 of resolution 2142 (2014), the Monitoring Group provided feedback to the FGS on its reporting during the mandate period, including to assist with its 30 September reporting.

[97] Reporting on force structure, strength and composition by the FGS also included (required) description of a range of training initiatives received or planned. Absent a baseline assessment of needs it is difficult to assess progress against overall objectives/training plan.

[98] Email from UN staff member, 11 March 2015.

signalled the challenges of moving towards a more unified force structure, including the process of integration of forces, which would "require significant resources and assistance".[99] The report did not, however, provide any background of details of these plans which would permit the Committee to examine any arms embargo implications. A snapshot of how the situation in the Interim Jubba Administration (IJA) is described in the reporting juxtaposed with other sources, illustrates some of the discrepancies. The latest force composition reported for the Middle and Lower Jubba-based Sector 43 of the SNA is "3,034".[100] Further in its March 2015 report the FGS noted that there were 2283 soldiers—described as "the forces in Kismayo"—who remained to be trained under the Human Rights Due Diligence Policy. At the same time, information from the National Commission for the Integration of the Somali Armed Forces (NIC) and other involved in the integration process indicated that there was a target of 2880 personnel for integration into the SNA in territory of the IJA, with 50 per cent expected to come from serving militia/IJA aligned forces and 50 per cent from non-aligned groups and new recruits.[101] On 27 July 2015 a swearing in ceremony took place for 1517 new SNA personnel from Lower Jubba/Kismayo, attended by the Presidents of both the IJA and the FGS.

76. It is vital that the impact on FGS force structure and command of both ongoing and planned integration is accurately described in future reporting. The FGS in the past provided relevant information—including details of command, force strength and disposition—when elements of ASWJ were integrated.[102] In this regard, it would also be appropriate to note where forces, and/or particular units, have been removed FGS command, whether due to realignment of political allegiance or demobilisation. A significant program of demobilisation, for example, is planned under the auspices of the NIC.[103] The Monitoring Group recognises, of course, that there will tend to be a degree of fluidity as the FGS reshapes its forces.

77. Finally the Security Council has asked the FGS to reflect on the status of "allied militias" as an integral part of its reporting on the structure, strength and composition of its forces.[104] The SNA, AMISOM, and other "strategic partners" rely on allied militia, in particular clan militia—including through sharing weaponry and ammunition—in fighting Al-Shabaab.

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[99] S/AC.29/2015/COMM.21 at page 4.

[100] Report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), S/AC.2912014/COMM.53.

[101] See, *inter alia*, FGS, Strategic framework for the management of security forces and militia integration and demobilisation, draft 1 February 2015, on file with the Monitoring Group.

[102] See, Report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), S/AC.2912014/COMM.53.

[103] See for example plans for the review and adjustment of existing SNA forces in the South Central region to ensure multi-clan composition, National commission for the integration of the Somali Armed Forces Presentation at the 22 July 2015, High Level Partnership Forum.

[104] Para 9 resolution 2142 (2014) required the FGS to report biannually on, "the structure, strength and composition (*including the status of allied militia)* [emphasis added] of the Security Forces of the FGS".

78. Clarity on the composition of armed forces is essential for determining compliance with the arms embargo, not just for the FGS, but also for AMISOM, its "strategic partners" and Member States assisting the FGS.[105] The integration of SNA forces in Sector 43 in Kismayo, for example, was preceded by a widely publicised military equipment delivery to Kismayo, including Casspir APCs, armoured cars and pick up trucks, for which the Committee did not receive a notification.[106] It is unclear whether this material was intended for the SNA integrated component of IJA forces or other forces such as the IJA's Ras Kamboni militia. The fact that the FGS was not advised of the shipment indicates that it was likely intended for the later.[107] AMISOM and bilateral partners are also providing training, equipment and other support to various forces in Kismayo.

79. Strictly confidential annex 3.1 provides a comprehensive account on the SNA force structure in relation to salary and ration distribution.

Infrastructure and procedures

80. While FGS provided updates efforts on progress in weapons marking and registration of imports and with respect to steps to develop a comprehensive WAM system, reporting again fell short in providing the full information required by the Council, particularly with respect to "procedures and codes of conduct in place for the registration, distribution, use and storage of weapons […] including procedures for receipt, verification and recording of weapons imports [..] and procedures for the transport of weapons and ammunition".[108] Although the focus of the reporting has been on the processing and registration of imports, what happens post is still unclear.

81. Reference was again made in reporting during this mandate to WAM procedures and codes of conduct, as described in the FGS February 2014 reporting. Over a year and a half later, however, this system is still understood to be more of an aspirational framework than a reflection of procedures actually in place. Information on the development of a weapons card system, for example, was encouraging, although no information was provided on the scope of its implementation. (The Monitoring Group understands that the system is in use with respect to personnel of private security companies and for civil servants who are authorised to bear arms.) While recognising that significant work is being undertaken on putting in place new systems, descriptions of the current practice would

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[105] It is also fundamental to understanding both political and military command responsibility affecting the scope of Somalia and other Member state's responsibilities under national and international law, including with respect to the sanctions regime.

[106] See discussion of this shipment in annex 7.2.

[107] See FGS letter to the Committee 28 May 2015, S/AC.29./2015/COMM.33 (S/AC/29./2015/NOTE.34). The FGS letter expressed regret that the Somalia government was not provided with "prior notification of the delivery as specified in paragraph 5 of 2142 (2014)" and stated that it would "immediately request Interim Jubba Administration and the Government of UAE to provide a comprehensive inventory listing of the equipment delivered to IJA on May 25th".

[108] Resolution 2182 (2014) at paragraph 9(c).

be helpful, including how weapons are distributed beyond Mogadishu and transported to and managed in the sectors.

82. Although information on various infrastructure construction projects underway or completed was provided in both the FGS September and March reports, comprehensive information on "storage capacity, staffing capacity, arms and ammunition management systems and status of use" of each currently available, and planned, armoury and storeroom as required by the Council was lacking.[109] The Committee would benefit an overview—as opposed to submission of isolated information on various projects—which could be regularly and easily updated (perhaps in tabular format) as projects complete and new needs are identified.[110] Although there is an understandable focus on weapons and ammunition storage in FGS reporting on infrastructure, the Committee also requires information on the safe storage, registration, maintenance and distribution of "military equipment". Information should be provided on measures taken to store/garage and ensure accountability for the distribution and use of other military equipment subject to the arms embargo, such as, for example, combat vehicles and uniforms.[111]

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[109] Resolution 2182 (2014) at paragraph 9.

[110] UNMAS maintains a database that brings together information from a range of partners on ongoing and planned construction: this could constitute a starting point for the generation of such an overview.

[111] See discussion on the need to improve management of military uniforms in annex 7.1.

Annex 7.4: Military equipment captured during offensive operations by AMISOM and FGS security forces: implementation of paragraph 6 resolution 2182 (2014)

83. With the escalation of joint operations against Al-Shabaab in 2014 and 2015, the question of management of seized weapons and equipment became increasingly pertinent. In September 2014, the Federal Government of Somalia (FGS) told the Committee that it had seized two surface to air missiles in Buulo Mareer on 31 Aug 2014; a Carl Gustave 84 mm High Explosive Anti-Tank round in Mogadishu on 19 June 2014; and "caches of arms and ammunition" in the Hereryale (Warta Nabadda District) of Mogadishu" on 7 August 2014.[112] At the same time it was clear that all seized weaponry was not being recorded, and that some was being recycled, and, in some cases, distributed onwards by both FGS security forces and the African Union Mission in Somalia (AMISOM).

84. The lack of information on these seizures not only undermined the Committee's capacity to assess the evolving arms, ammunition and equipment needs of FGS forces it also hampered tracking of unlawful equipment imports, possible leakage from Government stocks, and, potentially developing analysis of Al-Shabaab operations and supply routes.[113]

Adoption of paragraph 6 resolution 2182 (2014)

85. In October 2014—further to recommendations from the Monitoring Group in S/2014/726[114]--the Security Council decided that the Somali National Army (SNA) and AMISOM would be required to "document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates, including recording the type and serial number of the weapon and/or ammunition, photographing all items and relevant markings and facilitating inspection by the Monitoring Group of all military items before their redistribution or destruction".[115]

86. Although resolution 2182 (2014) does not require the FGS or AMISOM to notify the Committee of the captured materiel within a specified time period, the need for Monitoring Group access prior to disposal requires agreement on procedures for handling and storage of such equipment by, and between, FGS security forces and AMISOM, in addition to timely information sharing with the Monitoring Group. In this regard, on 21 April 2015 the Chair of the Committee wrote to the FGS National Security requesting details of efforts made by the SNA to meet the requirements of

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[112] S/AC.29/2014/COMM.83 dated 13 September, transmitted to the Secretariat on 16 September 2014. No information was provided, however, on the handling, storage or tracing of this weaponry. With respect to the August 2014 seizure, no details were provided on the type of materiel captured.

[113] The change in means and methods of warfare by anti-Al-Shabaab forces – such as for example the increased use of air power – may influence a change in the type and sourcing of weaponry by Al Shabaab. In early August 2015 for example a number of reports surfaced indicating that Al-Shabaab may have taken possession of a Surface-To-Air Missile (SAM-7), imported via Yemen.

[114] Paragraph 181 (d), S/2014/726.

[115] Resolution 2182 (2014) at paragraph 6.

paragraph 6 of resolution 2182 (2014).[116] The same request in respect of AMISOM forces was sent to the African Union Special Representative for Somalia (SRCC).[117]

87. Although there was no FGS response to the Chair's letter, at the end of March 2015 the FGS provided information in its regular "paragraph 9" reporting on three incidents where weapons and other materiel subject to the arms embargo had been seized, one of which operations had been conducted jointly with AMISOM.[118] The following information was provided by the FGS, referencing its "paragraph 6" obligations:

88. On 15 August 2014 weapons, ammunition, and military equipment were recovered during a joint search operation by NISA and AMISOM Sector 1 at the residence of Mr Ahmed Dai [Ahmed Hassan Adow], former Madina District Commissioner in Mogadishu. The material – including weapons, explosive materials, large bombs and IED components – was confiscated and recorded by an AMISOM Sector 1 officer and later transferred to NISA, less some of the material which was noted as taken by "NISA Col Coffi from SFC" (Annex 5 A);

89. On 28 October 2014 a joint SPF and NISA operation at Mogadishu port led to the seizure of magnets (for IED attachment) and other military equipment and accessories. On 17 November the container and goods were transferred to NISA. The inventory taken of the materiel included 1000 magnets, 2960 military uniforms, 4360 military boots; 3600 military t-shirts; 120 knives; 138 camouflage; 111 female veins; and 24,328 meters of military textile (Annex 5 B);

90. Although not described or referred to in the narrative reporting by the FGS, Annex 5 B also included a list entitled "On November 11th and 15th, 2014 items seized in Buula Mareer and Janaale districts". The materiel consisted primarily of 93 solar engines of different sizes, solar powered torches, fans, lamps, charging batteries, generators, invertors, irons and batteries. It was noted that the materiel had been stored at NISA.

91. The current whereabouts of this materiel is unclear. Some is reportedly stored at the National Intelligence and Security Agency (NISA). The FGS asserts that the August 2014 materiel jointly seized with AMSIOM was not in fact given to NISA – that only detainees were transferred to NISA custody.

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[116] Letter from the Chair of the Comnittee to the FGS National Security Adviser, 24 April 2015 (S/AC.29/2015/OC.10). The letter was dated 21 April 2015 but transmitted on 24 April 2015.

[117] See letter from the Chair of the Committee addressed to His Excellency, Ambassador Maman Sambo Sidikou, African Union Special Representative for Somalia (SRCC) and Head of AMISOM (S/AC.29/201510C.8). The letter was dated 21 April 2015 but transmitted on 24 April 2015.

[118] The information was included in a section of the FGS March paragraph 9 report headed "draft legislation against possession of non-registered lethal weapons". S/AC.29/2015/COMM.21 dated 30 March 2015.

92. In March 2015, in response to a specific request from the Monitoring Group, NISA provided photographs of three weapons allegedly used in the attack by Al-Shabaab on the Mogadishu International Airport (MIA) on 25 December 2015 and seized in the aftermath.

Current practices in relation to captured weaponry and equipment

93. Contradictory information exists, however, on current AMISOM and FGS practices with respect to handling of captured weaponry and equipment. It is understood that FGS expectation is that weapons captured by AMISOM are transferred to NISA for storage, tracing and, ultimately, disposal. This does not appear to be the AMISOM understanding.[119] Neither do FGS security forces follow a standard practice on captured weaponry or other materiel. In Mogadishu transfer of such materiel to NISA or the police does occur.[120] Fifteen NISA personnel in particular have been provided with specialist training on weapons identification and tracking and a separate section of the NISA armoury is allocated for captured weaponry.[121] According to the FGS, NISA have processed, registered and photographed some 35 captured weapons.

94. The President conducted an internal meeting on 19 May 2015 with heads of the security forces and relevant parties to discuss management and accounting for captured weapons. In the sectors, however, it is understood that weapons transfer to NISA or the police rarely happens, whether due to operational necessity, or more probably, the deeply rooted tradition that captured weaponry is shared as spoils with the successful fighters. Challenging these practices will require significant awareness raising not just with respect to Security Council obligations but also on the value and potential impact on the conflict of the identification and tracing of captured material in terms of generating greater intelligence on sources of weaponry and tactics. In this regard the Monitoring Group received a significant number of independent reports of weaponry and other materiel seized during the mandate by the SNA and other FGS forces, none of which, other than that set out above, has been notified to the Group.

95. AMISOM practices are also unclear. In mid June 2015 an AMISOM official told one interlocutor of the Monitoring Group that although AMISOM had previously transferred captured weapons to NISA it "no longer" did so. Another view reflected to the Monitoring Group was that there was a requirement for AMISOM to report to the FGS on captured weaponry but not to transfer it to its custody. AMISOM has not provided any information on captured weaponry or military equipment to the Monitoring Group during the mandate. The Group is, however, aware that such seizures have been

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[119] See discussion below.

[120] On 17 August 2015, for example, a joint operation by AMISOM police and FGS security forces in the Yaqshid/Sigale market neighbourhood of Mogadishu resulted in the recovery of pistols, electric detonators and explosive powder. This material was reportedly transferred to the SNPF Criminal Investigations Division. Email, UN from staff member, 17 August.

[121] Phone interview, UN official with knowledge of the security sector, 25 August 2015.

made, including in the context of joint AMISOM/FGS security forces operations as was the case at the home of Ahmed Hassan Adow in August 2014 noted above.

96. In April 2015 the Monitoring Group met with Dr Maman S Sidikou, African Union (AU) Special Representative for Somalia (SRCC) in Nairobi. During the discussion the team expressed concern about the dearth of information available to the Monitoring Group on weapons captured by AMISOM. By letter in late May 2015 the SRCC advised that operational and sector commanders had been specifically advised of the sanctions documentation and inspection obligations and that "all sectors" had been directed to "produce regular briefs on captured weapons" for forwarding to Force Headquarters.[122] It is understood that no such briefs have yet been received from the sectors. According to the SRCC, the mission has faced a number of obstacles in compliance, including lack of storage facilities in the sectors and guidance on "modalities".

97. In late June 2015 AMISOM wrote to the Monitoring Group to reflect further on the challenges encountered.[123] These included: lack of common approach in the sectors to the implementing Security Council requirements on captured weapons; lack of understanding of the circumstances in which captured weapons may be handed over to the FGS (and the modalities for such hand-over) or destroyed; and other unspecified "logistical challenges". The mission requested that the Monitoring Group provide a briefing for AMISOM operational commanders which would provide "answers/solutions to the issues raised" on 3 July 2015, noting that the upcoming offensive was likely to lead to additional seizure and capture of weapons. Unfortunately, due to the very short notice, the SEMG was unable to take part in this session.

Improving implementation of paragraph 6 resolution 2182 (2014)

98. Effective implementation of paragraph 6 will require the FGS and AMISOM to agree on responsibilities for documentation, registration, tracing and analysis of captured weapons and other materiel as appropriate, a transfer procedure to the responsible entity, a framework for storage and disposal of the materiel retained or transferred, and a protocol for informing the Monitoring Group of the seizure. Both AMISOM and FGS would likely require development of Standard Operating Procedures (SOPs) to operationalise any agreement.[124] Arrangements for sharing the findings of the analysis and tracing of the equipment subsequently conducted—whether by the FGS, the Monitoring

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[122] Letter dated 30 May2015 from the Special Representative of the Chairperson of the African Union Commission (SRCC) for Somalia and Head of AMISOM (S/AC.29/2015/COMM.36). The letter was a response to enquires from the Chairperson of the Committee on efforts made by AMISOM to discharge its obligations under paragraph 6 of resolution 2182 (2014).

[123] Email from the Office of the SRCC to the Coordinator of the Monitoring Group, 26 June 2015.

[124] Clarification of AMISOM procedures and capacity to manage captured weaponry will also be important in the context of plans for AMISOM engagement in the national integration and disarmament process. The current strategic plan indicates that AMISOM is likely to be mandated to control surrendered weapons, with UNMAS assisting on safe handling, registration and storage.

Group, AMISOM or Member States—could help demonstrate the benefits of compliance for all parties. Finally, the Monitoring Group recommends that troop contributing countries also be reminded of their obligations and urged to direct their AMISOM contingents to comply with directives from Force Headquarters on the documentation, storage and disposal of captured military materiel.

99. Training in weapons documentation, identification and tracking will be necessary for the various entities charged with processing captured weapons. Conflict Armament Research conducted training in 2015 for 15 NISA personnel in identification and tracing of arms and ammunition: for this training to be operationalised, the provision of a weapons marking machine will be critical. Alongside this training it is understood that a template for the recording and analysis of captured weaponry has been developed.[125]

Captured weaponry and equipment and the role of "other Somali security sector institutions" and bilateral partners

100. 'Other Somali security sector institutions' not under FGS command also seize weapons, ammunition and equipment from armed actors, both within and outside the context of the conflict with Al-Shabaab. In Puntland, for example, the PMPF has captured weapons and ammunition from vessels engaging in illegal trade, such as illegal fishing, human trafficking, weapons and ammunition smuggling.[126] Engagement on land with Al-Shabaab by regional forces, such as those controlled by the Interim Jubbaland Administration (IJA) and the Somaliland and Puntland authorities, also result in seizures.[127] With reports of illegal weapon flows from Yemen and the increasing concentration of Al-Shabaab fighters in Somaliland and Puntland, incidents in these latter jurisdictions are expected to rise. Operations by international forces operating bilaterally also reportedly result in weapons and other military equipment seizures.[128]

101. It the light of the growing complexity of forces engaged in Somalia's various conflicts, and the continued capacity demonstrated by Al-Shabaab to procure ample and increasingly heavy weaponry, the need for more systematic identification and tracing of weapons and materiel is acute. A centralised

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[125] Introduction of such a template and its standardisation throughout FGS forces – and indeed more broadly among the armed forces operating in Somalia – would permit swifter more effective tracing and analysis of patterns but also facilitate sharing and cross-referencing of information.

[126] Email from expert with knowledge of the security sector, 25 March 2015.

[127] See for example a report of the arrest of 5 suspected Al-Shabaab members in possession of an unspecified quantity of explosives in Awbarkhadle (east of Hargeisa). Email from UN staff member, 12 July 2015. The Monitoring Group understands that there has been some discussion with donors around capacity building in processing and tracing of captured weapons for "other security sector institutions" in particular those in Puntland and Somaliland. The authorities there appear open to this support.

[128] On 26 August 2015, for example, it was reported that fighting in Kulunjerer in Bakool between Al-Shabaab and the SNA, engaging alongside the Ethiopian Liyu police had led to the capture of two PKM and one RPG. Email, UN staff member, 28 August 2015.

information flow on captured weapons would also assist the FGS with tracking and responding to weapons diversion from its own stocks.

102. In this context the Committee may wish to consider a mechanism which would facilitate and invite reporting on captured weaponry by non-FGS forces present in Somalia, whether Somali or international, including through a modification of the scope of paragraph 6 of resolution 2182 (2014). The information collected by the Monitoring Group in this regard could also be shared, where appropriate, with the FGS.

Annex 7.5: Enhancing compliance: international assistance to the Federal Government of Somalia (FGS)

103. The Security Council has recognised the need for the FGS to receive international assistance in order to achieve progress in complying with the terms of the partial lift. In resolution 2142 (2014) the Security Council requested the Secretary-General to provide options and recommendations on the assistance needs of the FGS, specifically how FGS capacities "in the safe and transparent storage, distribution and management of weapons and military equipment, including in monitoring and verification" could be improved.[129] Following a mission to Somalia in March 2014, the Secretary-General presented the findings of his assessment on 3 April 2014[130].

104. Among the Secretary-General's key recommendations was the establishment of a joint verification team (JVT) which would conduct independent monitoring of Government weapon and ammunition stocks. The JVT would report to the Weapons and Ammunition Technical Working Group (WATG) established under the authority of the Arms and Ammunition Management Steering Committee (AAMSC) and onwards to the Committee, including via the Monitoring Group which sits on the WATG. With a strong national capacity building component, the JVT was designed to complement the work of, and coordinate with, the Monitoring Group, including due to the operational constraints facing the latter.[131] Finally it was also intended that the impact of the JVT would be to assist in "mitigating the diversion of arms and ammunition to entities outside of the security services of the FGS".[132]

105. In its response to the Secretary-General's report, the Security Council urged Member States to "provide sufficient financial resources to support the prompt establishment of this team".[133] It also appealed to Member States to prioritize the provision of other support and equipment to the FGS which would (1) improve FGS compliance on reporting and notifications; (2) facilitate the conduct of a baseline registration survey of the Somali Security Sector and (3) commence a weapons marking and registration process (including to "inform future verification activities").[134]

106. Although support since the Security Council's call has scaled up, international assistance to the FGS to achieve these priorities remains insufficient. Despite the very specific request by the Security Council in May 2014 for assistance from the international community for the provision of at least five

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[129] Resolution 2142 (2014) at paragraph 10(b).
[130] S/2014/243.
[131] See S/2014/243 and S/PRST/2014/9. Access to many sites is not possible for the group's members due to UN movement restrictions.
[132] Resolution 2182 (2014) at paragraph 7.
[133] S/PRST/2014/9.
[134] S/PRST/2014/9.

weapon marking machines, by mid August 2015 only two had been delivered.[135] Other critical initiatives which would support achieving the priorities identified by the Security Council's remain unfunded: three of these are discussed below.

Developing a comprehensive approach to WAM management

107. At the end of December 2014 the FGS wrote to the Committee to seek support from the UN and Member States for a 12-month pilot project that would, *inter alia*, assist the FGS to[136]:

- Develop and implement a national framework and standards in accordance with the International Small Arms Control Standards ISACS and the International Ammunition Technical Guidelines (IATG);
- Develop and implement safe and transparent procedures for the reception and distribution of weapons and ammunition;
- Establish a weapons and ammunition marking and registration system (newly imported as well as old arsenals);
- Conduct regular verification to ensure safety and transparency in the management and distribution of weapons and ammunitions;
- Support the FGS in preparing and submitting all necessary reports and notifications to the UNSC.[137]

108. Three months later in March 2015 in the course of its paragraph 9 reporting, the FGS advised the Committee that funding for the project had not yet been secured.[138] At the time of finalisation of this report the project was still stalled.

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[135] Three additional marking machines did reach Mogadishu by 31 August 2015 and were awaiting conclusion of agreements for use with the UN Mine Action Service (UNMAS) at time of finalisation of this report.

[136] Letter dated 20 December 2014 from the Permanent Mission of Somalia to the United Nations addressed to the Chair of the Committee, S/AC.29/2014/COMM.124, transmitted to the Committee as S/AC.29/2014/NOTE.130, 31 December 2014 (The delay in circulation was a result of the Secretariat's attempts to reach out to competent Somali authorities for clarification on the intended recipients).

[137] The project was developed in collaboration with the United Nations Assistance Mission in Somalia (UNSOM) Rule of Law and Security Institutions Group (ROLSIG) and UNMAS. The project envisaged the retention of a consultancy team (120 days contract over a 12 month period) coordinated by UNMAS. In addition, 2 local staff would be hired for 12 months to provide regular support follow up and mentorship to the FGS WAM authorities.

[138] S/AC.29/2015/COMM.21 dated 30 March 2015.

The Office of the National Security Advisor

109. The Security Council has underlined the "urgent need" for support for the Office of the National Security Advisor (NSA).[139] It continues to operate without sufficient capacity support. Assistance in kind has been provided by the UN, in particular by the UN Mission in Somalia (UNSOM), the United Nations Coordinating Action on Small Arms (CASA) and the Security Council Affairs Division (SCAD). This work has particularly centred on coordinating FGS reporting obligations to the Security Council, including the development of templates and advice on compliance. Nevertheless, despite demonstrated willingness by the NSA to improve compliance, direct support for personnel and equipment is lacking. Without such support it will be difficult for the NSA to function effectively against the background of an expanding folder of obligations.[140]

Progress in the establishment of the Joint Verification Team (JVT)

110. In October 2014 the Security Council reiterated its request to the FGS – with the support of international partners – to "establish a joint verification team which would conduct routine inspections of government security forces' stockpiles, inventory records and the supply chain of weapons" and provide its findings to the Committee.[141] In March 2015 the FGS reported that there had been little progress on the establishment of the team. It described "significant challenges", noting in particular the "lack of resources", the "significant" security problems and the "mandate limitations of international partners to access Somali Security Forces situated in the theatre of operations".[142] Nevertheless the FGS reiterated its intention to finalise terms of reference for the JVT, in cooperation with the Monitoring Group, emphasising the need for Member States to provide sufficient financial resources. Three arms and ammunition baseline surveys conducted in Mogadishu, Baidoa and Belet Weyne in the second half of 2014 were described as "a foundation" for the process. On 21 April 2015 the Chair of the Committee requested the Arms and Ammunition Standing Committee (AASC) to provide information on progress towards establishing the JVT.[143] At the time of writing, the AAMSC has yet to respond. Although some progress was recorded in the June 2015 AASC meeting in terms of the development of a concept note and the Terms of Reference for the team, the question of the funding for the team was not clarified.

111. Despite these setbacks, the FGS was determined to move forward in fulfilling its obligations. In late June 2015 it entered into discussions with Conflict Armament Research (CAR)— an independent private consultancy which had offered its services pro bono—to begin the work in the

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[139] S/PRST/2014/9.
[140] See annex 7.3.
[141] Resolution 2182 (2014) at paragraph 7.
[142] S/AC.29/2015/COMM.21 dated 30 March 2015.
[143] Letter from the Chair of the Security Council Committee to Abdirahman Sheikh Issa, Chair of the Arms and Ammunition Management Steering Committee and National Security Adviser, Office of the President of the Federal Republic of Somalia in Mogadishu (S/AC.29/201S/OC.11).

interim until an appropriate funding stream was identified. A Terms of Reference document for the JVT was finally agreed between the FGS, UNSOM and CAR on 22 August 2015. Operating under the overall authority of the AAMSC, the JVT will "conduct routine inspections of the FGS' security forces' stockpiles, inventory records and the supply chain of weapons for the purposes of mitigating the diversion of arms and ammunition to entities outside of the security services of the FGS".[144] The team will be composed of four FGS security officials and four international personnel from which co-team leaders will be drawn.[145] The JVT will submit quarterly reports to the AAMSC which members—including the Monitoring Group—may submit queries or points of clarification. UNSOM will provide the logistics support for the team. Funding for the sustainable operation of the team is still awaited.

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[144] See, Terms of Reference for the establishment of the Joint Verification Team of arms and ammunition, on file with Monitoring Group.

[145] See, Terms of Reference for the establishment of the Joint Verification Team of arms and ammunition, on file with Monitoring Group.

Annex 7.6 Implementation of, and recommendations related to, modifications of the arms embargo stipulated in resolution 2182 (2014)

112. There have been two significant developments with respect to the scope of the arms embargo since S/2014/727. First, in paragraph 15 of resolution 2182 (2014), the Council acting under Chapter VII authorised Member States, in certain circumstances, to conduct interdiction in Somali territorial waters and on the high seas. Second, the Council requested the Monitoring Group and the Federal Government of Somalia (FGS) to work together to present a proposal to provide for an exemption to the arms embargo for weapons on board vessels engaged in commercial activity in Somali territorial waters and in Somali ports.[146] These developments respond to challenges surrounding enforcement of the charcoal ban and arms embargo, and also reflect the need to adapt the regime to changing realities on the ground. This annex assesses the implementation of the Council's authorisation of interdiction in resolution 2182 (2014) and describes the progress made in developing a proposal to provide for an exemption for armed security on commercial vessels in certain circumstances.[147]

Interdiction on the high seas and territorial waters

113. In S/2014/727, against the background of ongoing violations of the arms embargo and charcoal ban and the need for more effective enforcement measures, the Monitoring Group recommended that the Security Council provide international maritime forces with the power to interdict vessels on the high seas and within Somali territorial waters in certain circumstances.[148] The FGS had also written requesting Council's support in this regard.[149]

114. In response, the Council authorized Member States, for a period of twelve months, to inspect vessels bound for Somalia where there are reasonable grounds to believe that the vessel is, *inter alia*,

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[146] Resolution 2182 (2014) at paragraph 10.

[147] Paragraph 49 of Resolution 2182 (2014) requests the Monitoring Group to report on the implementation of the authorization set out in paragraph 15 of the same resolution, as part of its regular reporting to the Committee.

[148] S/2014/727 paragraph 181.

[149] Letter dated 10 October 2014 from the Deputy Permanent Representative of the Somali Republic to the United Nations addressed to the President of the Security Council and copied to the Secretariat of the Committee, enclosing a letter dated 8 October 2015 from the President of the FGS (S/AC.29/2014/COMM.104). The letter requested "further assistance from the Council in authorising existing international maritime forces to take measures at sea to prevent the export of charcoal from Somalia and the delivery of weapons and military equipment into Somalia in violation of the arms embargo".

carrying materiel in violation of the arms embargo on Somalia.[150] On 7 January 2015 the President of Somalia wrote to the Secretary-General advising that it would be acceptable to the FGS for "selected Member States who are member nations of Combined Maritime Forces [CMF]" to make such inspections.[151]

115. Since then, discussions on operationalisation of the authorisation to interdict arms and military equipment being carried in violation of the arms embargo have taken place in a number of fora, including most intensively at CMF headquarters. The Monitoring Group alongside the FGS National Security Advisor (NSA) and UN agencies, has contributed to these debates. Progress however has been slow: no arms interdiction operation has yet been conducted. It is understood that among the challenges is the question of how to interpret and apply certain provisions of the authorisation, particularly with respect to dealing with individuals found on board interdicted vessels, and the documentation and disposal of weaponry, including in the context of European Union legal requirements.[152] The situation with respect to arms interdiction contrasts with the situation regarding maritime interdiction of charcoal also authorised in paragraph 15 of resolution 2182 (2014). Despite ongoing discussion on options for charcoal disposal, one successful interdiction has been conducted by international maritime forces and significant surveillance information has been shared with the Monitoring Group by Member States participating in the effort.

116. The need for paragraph 15 to be operationalised and for arms interdiction to commence remains acute. Further to a CMF meeting in August 2015 the FGS NSA wrote to the CMF Commander, copied to the Chair of the Committee, urging the Commander to "encourage CMF to begin the naval maritime interdiction process and the systematic monitoring of weapons particularly

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[150] Paragraph 15 of resolution 2182 (2014). The authorisation specifically provided that Member sates, acting individually or collectively, in cooperation with the FGS, and further to appropriate notification to the Secretary-General (and onwards by the Secretary-General to member States), could "take all necessary measures commensurate with the circumstances" to inspect such vessels bound for Somalia on the high seas and in Somali territorial waters (paragraph 15, resolution 2182). The high seas were the defined as waters "off the coast of Somalia extending to and including the Arabian sea and Persian Gulf". The resolution also authorized the interdiction of vessels "carrying charcoal from Somalia in violation of the charcoal ban".

[151] See letter from the President of the Federal Republic of Somalia to the Secretary General, 7 January 2015, JFS/XM/NUN6/SG/1/15. Selected Member states of the CMF include Australia, Bahrain, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Portugal, Saudi Arabia, Singapore, Spain, Turkey, UAE, UK and the US. Following a letter dated 25 July 2015 from the National Security Advisor to the President of the Federal Republic of Somalia to the Commander of the Combined Maritime Forces copied to the Chair of the Committee, New Zealand was added to the list above.

[152] The provisions governing the authorisation set out a detailed framework within which the power may be operationalized including addressing issues such as the obligations of flag states, the need for the conduct of inspections to accord with international humanitarian and human rights law, seizure and disposal and the reporting requirements consonant on such inspections. See S/RES/2182 (2014) paragraphs 15 – 22 inclusive.

coming from Yemen to Somalia".[153] The letter particularly expressed concern regarding an "influx of arms and ammunition" along the coast of Puntland and Somalia, noting that, "it is a growing security concern that we may soon see surface to air missiles among other destructive weapons reaching Somalia from Yemen".

117. Illegal imports of weapons, explosives and other military equipment to Somalia, including via maritime channels, continues to pose a serious threat to peace and security in Somalia. In the global context of the Yemen crisis, and in particular as the anti-Al-Shabaab offensive escalates and AMISOM and its strategic partners deploy new tactics and weaponry, sourcing of new and heavier weaponry by Al-Shabaab is a likely countermeasure. Unconfirmed reports have already surfaced that Al-Shabaab may be seeking, and even have obtained, Surface to Air Missiles just as military helicopters are preparing to be deployed in support of AMISOM operations for the first time.[154] The Group thus recommends that the interdiction authorisation in paragraph 15 resolution 2182 (2014) be renewed for an additional twelve months and Member States be urged to offer the assistance of their maritime forces.

118. In view of the ongoing implementation challenges, development of a specific implementation assistance notice should be considered. In the interim the sharing of real time information with the Monitoring Group on vessels which may be operating in violation of the arms embargo should be encouraged.

Implementation of paragraph 10 of resolution 2182 (2014) on private maritime security operations

119. The Gulf of Aden—including Somali territorial waters—is designated as a High Risk Area for maritime piracy and armed robbery. As a result, a significant number of commercial trading vessels entering Somalia's territorial waters and calling at Somali ports are protected against possible piracy attacks by privately contracted armed security personnel (PCASP). The use of PCASP aboard commercial vessels is consistent with international maritime security best practices in the Gulf of Aden as a means to deter, prevent, and repress acts of piracy and armed robbery at sea. In resolution 2125 (2013) the Security Council in fact encouraged States to develop regulations for the use of PCASP on board ships, aimed at preventing and suppressing piracy off the coast of Somalia.[155]

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[153] See letter dated 25 July 2015 (received by the Secretariat on 1 August 2015) from the National Security Advisor to the President of the Federal Republic of Somalia to the Commander of the Combined Maritime Forces, which is copied to the Chair of the Committee, S/AC.29/2015/COMM.50. Transmitted to the Committee, 5 August 2015, S/AC.29/2015/NOTE.56.

[154] See, inter alia, paragraph 14 of resolution 2232 (2015).

[155] Resolution 2125 (2103) at paragraph 26.

120. Meanwhile, under the current provisions for arms embargo on Somalia, the carriage of weapons by PCASP and their potential use in Somalia (whether in its territorial waters, at port or on land) constitutes a breach of the arms embargo. As a result, owners, operators and security providers of commercial vessels which enter Somali territory with PCASP on board are in breach of the arms embargo. The resulting contradiction between protection and potential violation of the arms embargo tends to undermine the safe management of commercial maritime traffic and may unduly hamper legitimate economic activities.

121. In this context, and further to the Monitoring Group's recommendation, in paragraph 10 of resolution 2182 (2014), the Security Council requested the FGS and the Monitoring Group to work together to formulate a proposal to provide for an exemption to the arms embargo for weapons on board vessels engaged in commercial activity in Somali territorial waters and in Somali ports.[156]

122. On 25 February 2015 further to an exchange of views and written correspondence between the Monitoring Group and the National Security Advisor, the Monitoring Group Coordinator wrote to the Committee to update members on the state of the discussion that set out two options for the creation of such an exemption.[157] The first was to create a standing exemption involving a "for information" notification only.[158] The second involved stipulation of an advance request for approval procedure permitting the Committee to review and approve exemption requests on a case-by-case basis.[159] The FGS later indicted that it had a preference for the granting of "permission on a case by case basis rather than a blanket exemption".[160]

123. With respect to both options it was emphasised that only temporary transit in Somali territorial waters and at Somali ports would be permitted: the exemption would not apply to the disembarkation of weapons or equipment from those vessels onto land. Only weapons and related security equipment owned and operated by registered PCASPs and carried solely for maritime security purposes could

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[156] Resolution 2182 (2014) at paragraph 10.

[157] Letter dated 25 February 2015 from the Coordinator of the Somalia and Eritrea Monitoring Group, S/AC.29/2015/Monitoring Group/OC.4. In parallel with the Monitoring Group's letter, the FGS NSA also wrote to the Committee to advise that it required additional time to consult with various stakeholders, including regional states, the International Maritime Organization and the Federal Parliament of Somalia. It requested three months to more thoroughly consider the proposal. Letter dated 25 February 2015 from the National Security Adviser to the President of Somalia, S/AC.29/2015/COMM.13, transmitted to the Committee, S/AC.29/2015/NOTE.014.

[158] Such an exemption would enter into force with the adoption of a Security Council resolution and would not require any form of additional approval by the Committee. This option would permit the Committee to maintain visibility on the movement of weapons into Somalia territorial waters with limited administrative burden.

[159] In order to help minimise the administrative burden on the Committee entailed by an approval process, it was suggested aggregate request could be made, rather than for every individual vessel or movement. The advantage of this option was greater exercise of control over the movement of weapons into Somalia's territorial water and ports.

[160] S/AC.29/2015/COMM.21 dated 30 March 2015.

benefit from the exemption. Detailed information on the weapons and equipment and on the vessel upon which they are carried would be required.[161] Finally the Monitoring Group suggested that the FGS receive copies of the information provided to the Committee.[162]

Update on engagement

124. In the course of its mandate the Monitoring Group has had an opportunity to refine its thinking on options for the proposal. This has involved analysis of both the evolving situation along the Somali coastline and the development of coast guard and maritime capacities (albeit in their infancy) in areas under FGS control and in the regions. The context includes the expansion of illegal fishing activities and the potential for other forms of commercial activity in Somali waters such as seismic survey operations etc., which may raise broader peace and security issues. The Group has also consulted with PCASPs.[163]

125. The Monitoring Group therefore recommends that the following additional issues are taken into account in the formulation of the exemption:

- the need to restrict the scope of the exemption to protection activities in support of lawful commercial activity;
- a requirement for PCASPs to operate standard procedures relating to weapons carriage both on sea and when berthing in Somali ports, including operation of a bonded store,
- recognition of a right of inspection of the vessel by appropriate Somali authorities in Somali territorial waters and in Somali ports, including inspection of the bonded store

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[161] It was suggested that among the details required would be name of the vessel and IMO number; voyage details (including estimated time of entering and departure from Somali territorial waters, and ports to be visited); name and contact details of the captain of the vessel; full name, address of registration and contact details of the contracted security provider; name and contact details of the responsible director of the contracted security provider; names and passport details of the security guards on board; flag State approval letter; number of weapons, type, serial numbers and end-user certificates; protection and Indemnity 'statement' acknowledging use of armed guards on board of the vessel while transiting Somali territorial waters and ports; valid Class certificate ensuring that the vessel is compliant with Class regulations.

[162] During consultations with the Committee on the Monitoring Group's October 2014 report the FGS had expressed concerns that "authorizing private maritime security companies, operating within our territorial jurisdiction without our consent may negatively affect our sovereignty". Statement made by the National Security Adviser to the President of the Federal Republic of Somalia during the informal consultations of the Committee on 10 October 2014 (S/AC.29/2014/NOTE.111). The FGS announced also that it proposed to conduct a "joint assessment of the implications of private maritime security forces, bearing in mind that that the Federal Government of Somalia is developing its own Coast Guard to detect and control illicit activities". It indicated that the report would be submitted to the Security Council by June 2015.

[163] See annex 2.3.

and the need for information to be provided to the Somali authorities to facilitate such inspection.

126. Finally, in terms of communication with the Committee, it is only member states which obligations are engaged by the proposed PCASP activities, or international organisations, which can make the notification or request for approval. As the International Maritime Organisation (IMO) operates a system of registration for PCASPs, consideration might be given to the development of a capacity within the IMO to operate as a clearing house and point of submission of requests for approval or notifications for information. This could reduce some of the administrative complications entailed by required notifications to original from flag states and states of registration of the PCASP.

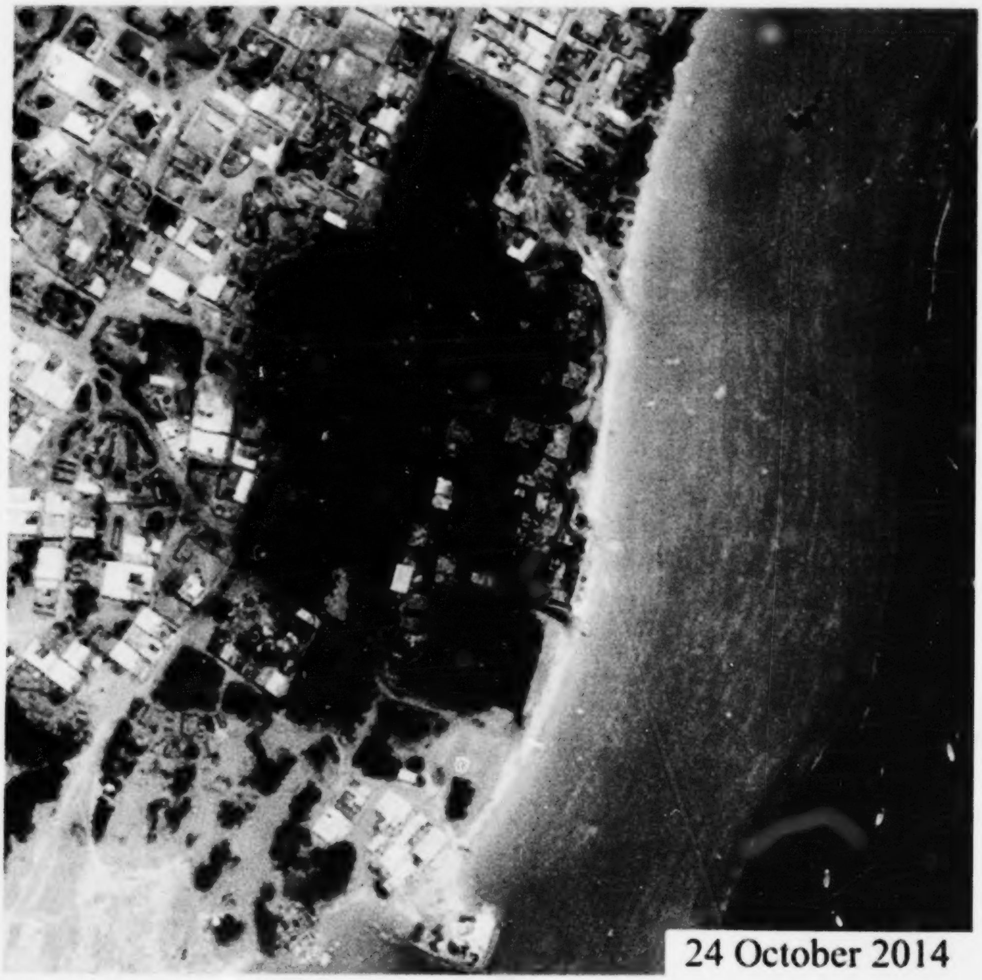
Annex 8

Violations of the charcoal ban

Annex 8.1: Charcoal Stockpiles[1]

Barawe Stockpile

1. Satellite imagery of the Barawe stockpiles demonstrates the movement of significant volumes of charcoal in the immediate aftermath of the town's recovery from Al-Shabaab in early October 2014 and the arrest of several local officials in late November 2014, following which stockpiles appear to remain untouched. The aerial photograph taken in March 2015 – towards the end of the long dry season when charcoal production is historically near its peak – shows no activity around the stockpile.



24 October 2014

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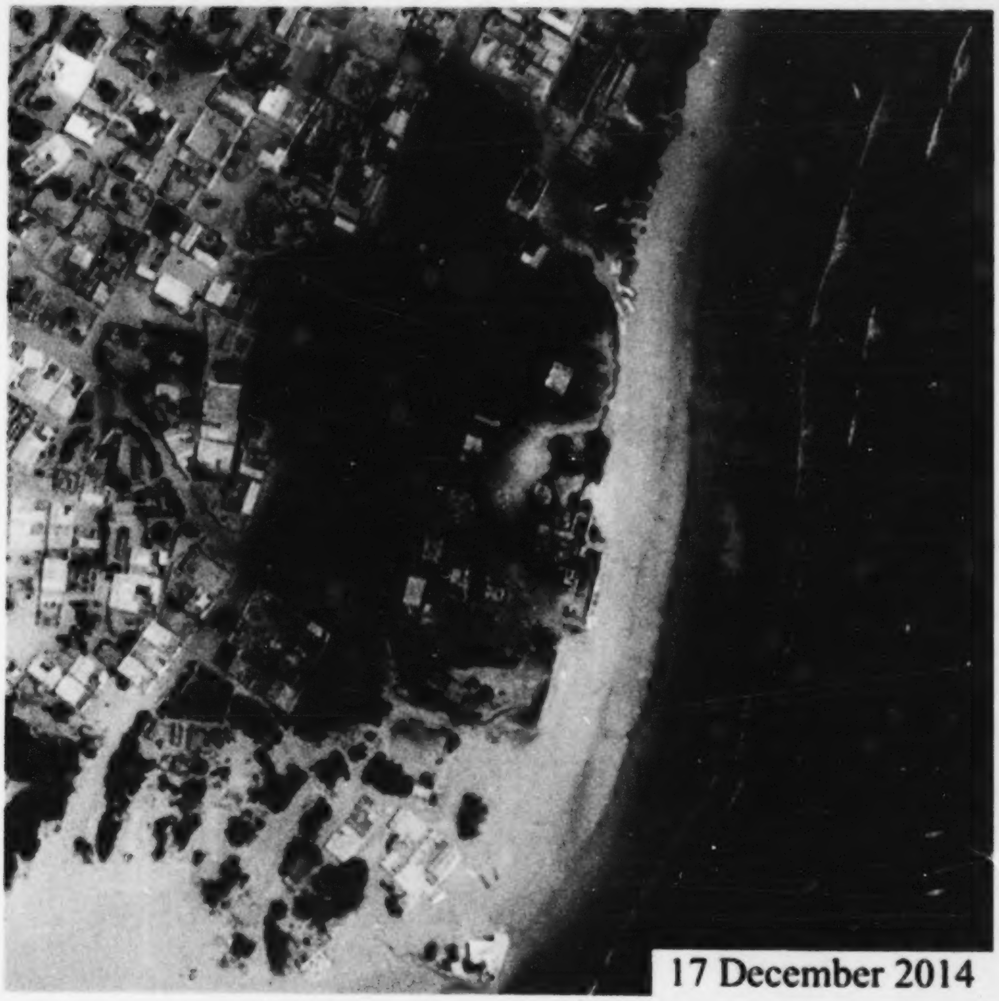
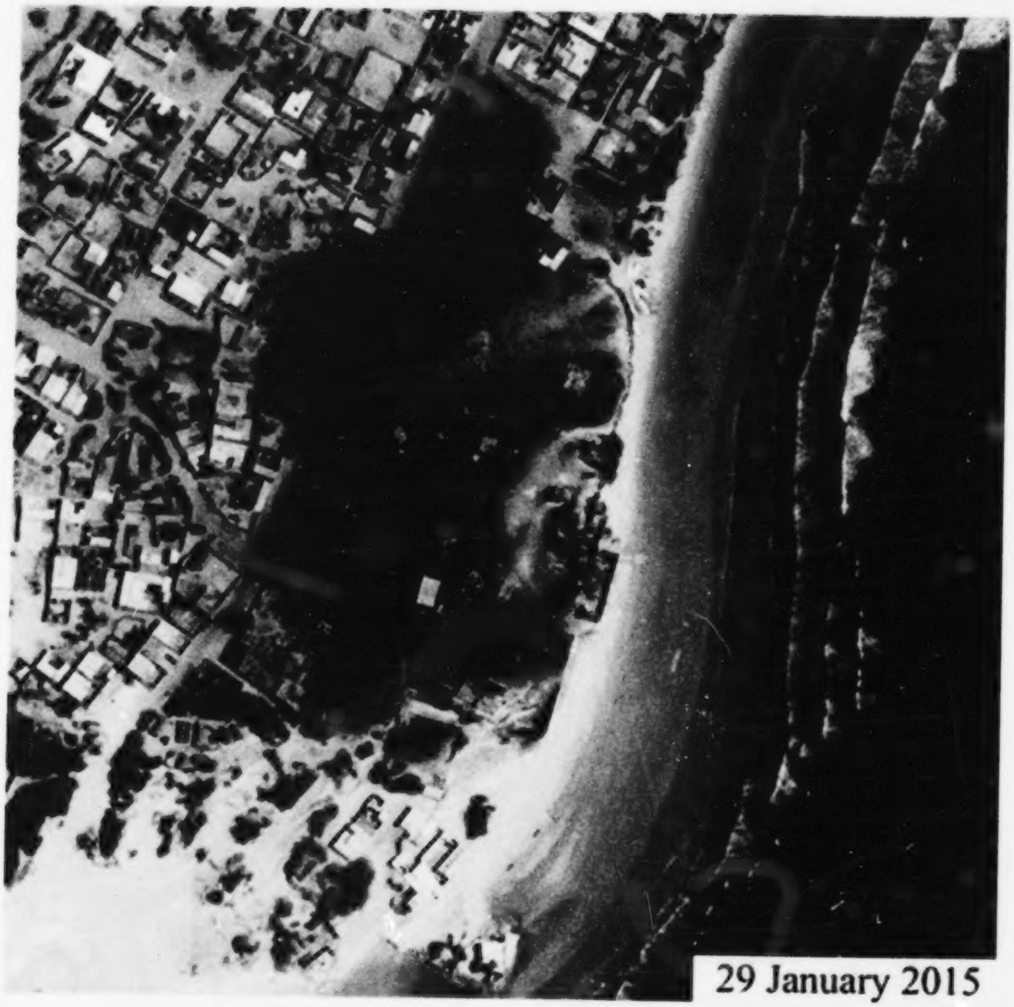
[1] All satellite images were acquired from Digital Globe: www.digitalglobe.com.

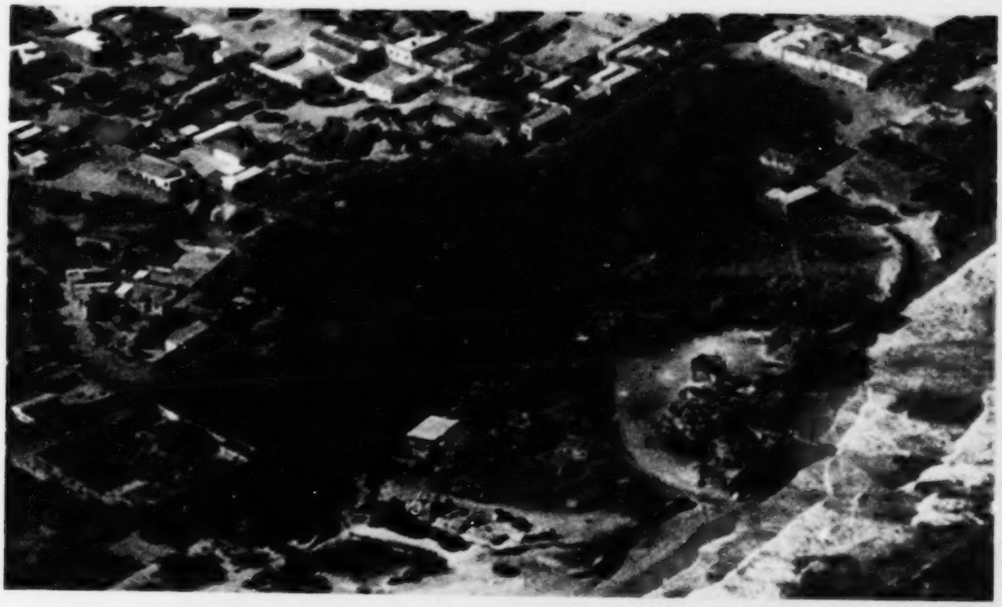


17 December 2014



29 January 2015

Barawe charcoal stockpiles in March 2015[2]



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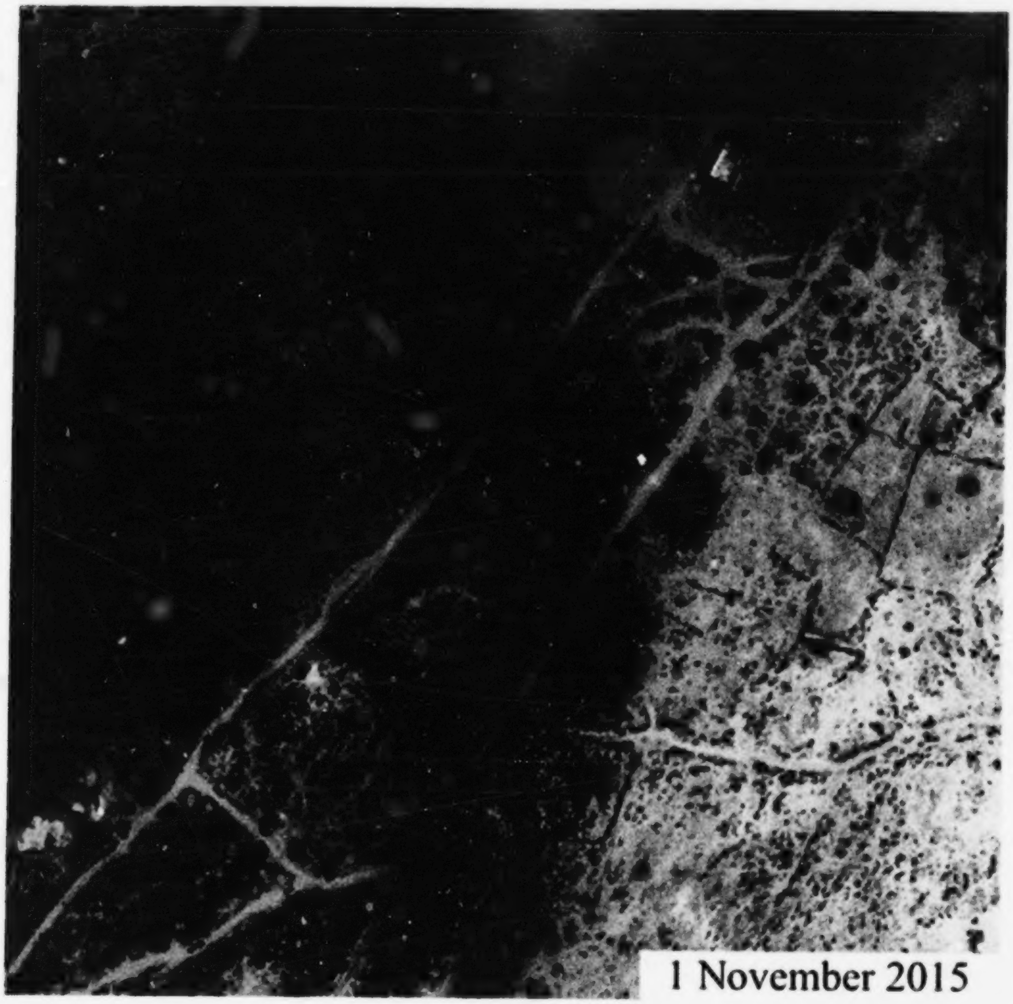
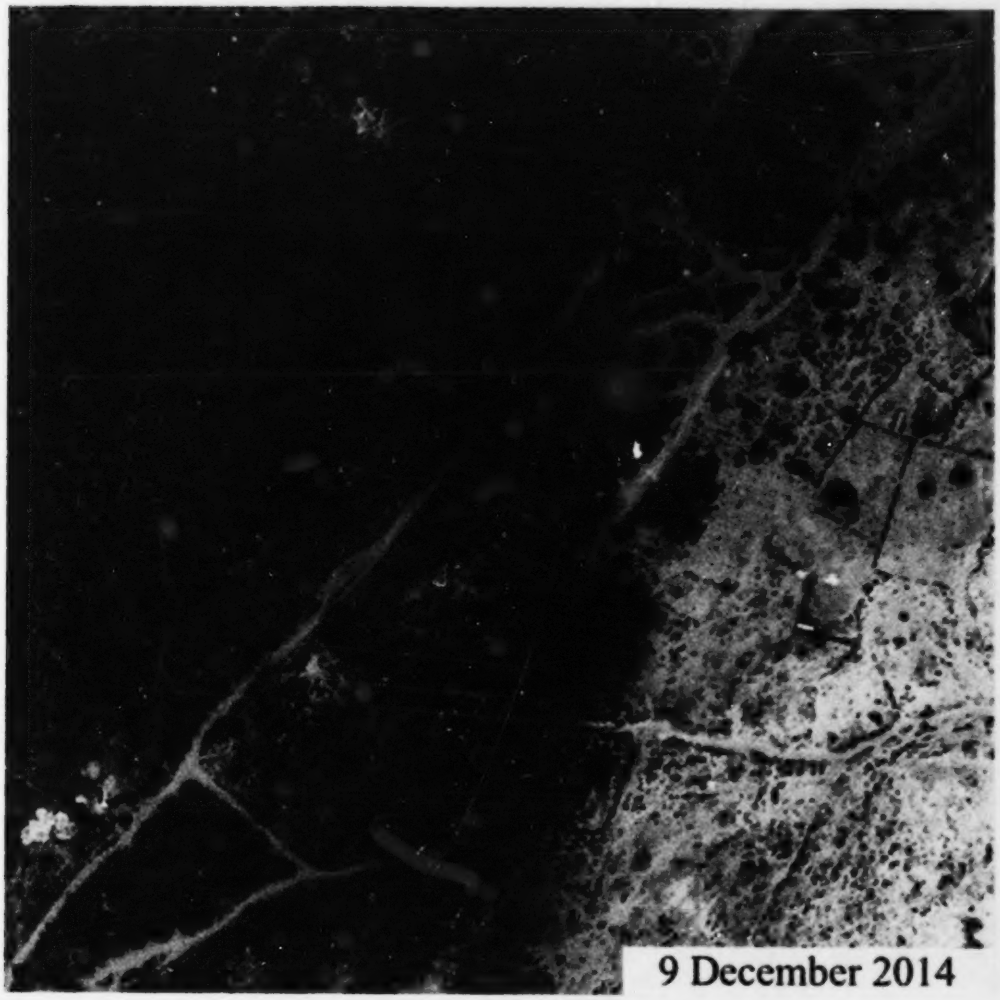
[2] Aerial photograph acquired with support from regional Naval forces.

Kismayo southern stockpile

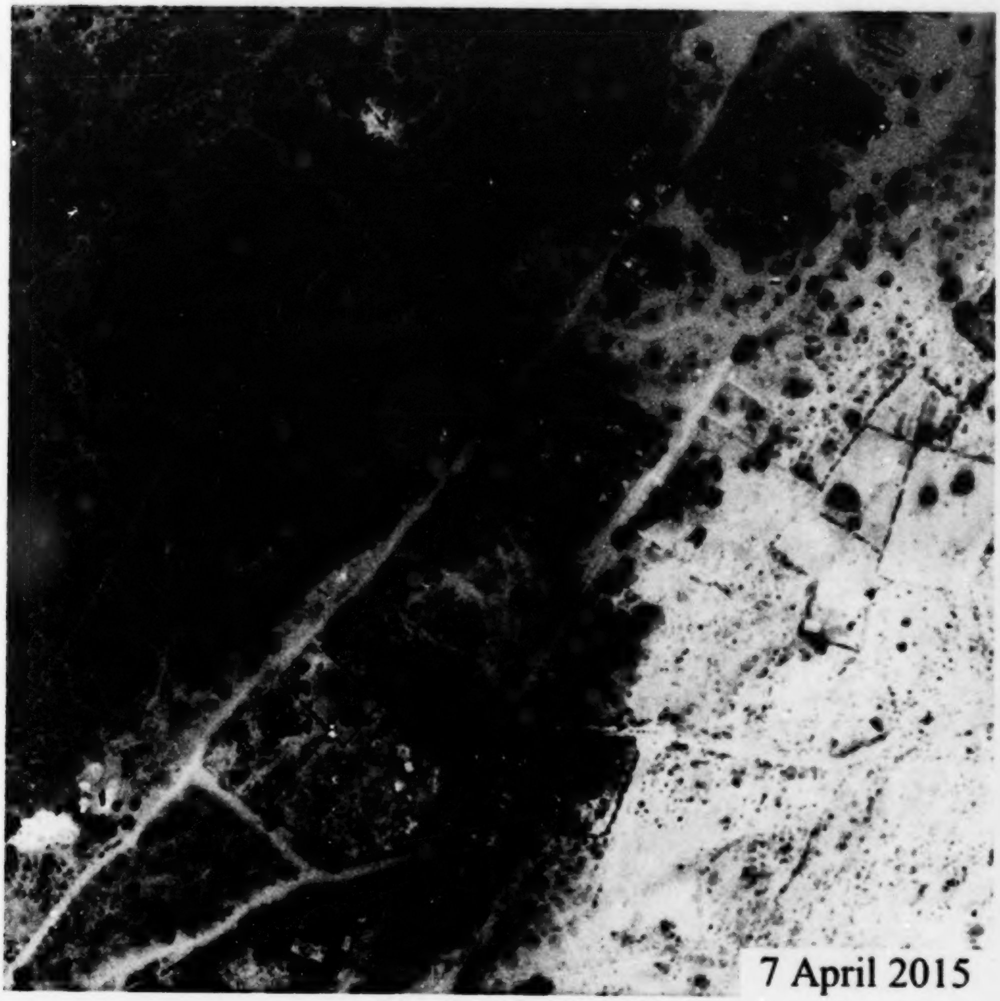
2. Satellite imagery of the Kismayo southern stockpile shows significant depletion of considerable charcoal stocks in late 2014. By January 2015 stocks are replenished before gradually depleting again over the course of 2015, supporting the assertion that elements of Al-Shabaab were actively frustrating the trade from Kismayo in early 2015.





9 December 2014

11 January 2015



7 April 2015

31 August 2015

Kismayo southern stockpile, 27 April 2015[3]

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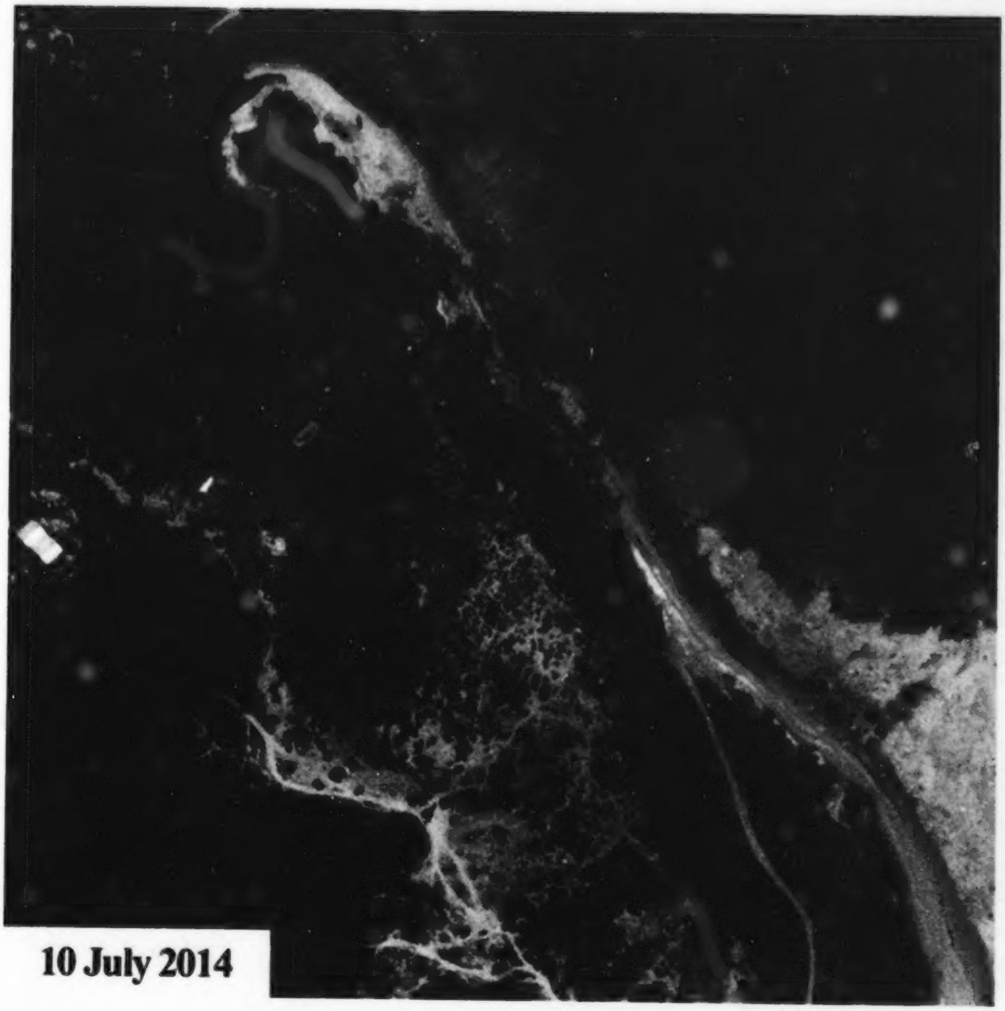
[3] Image taken by the Monitoring Group.

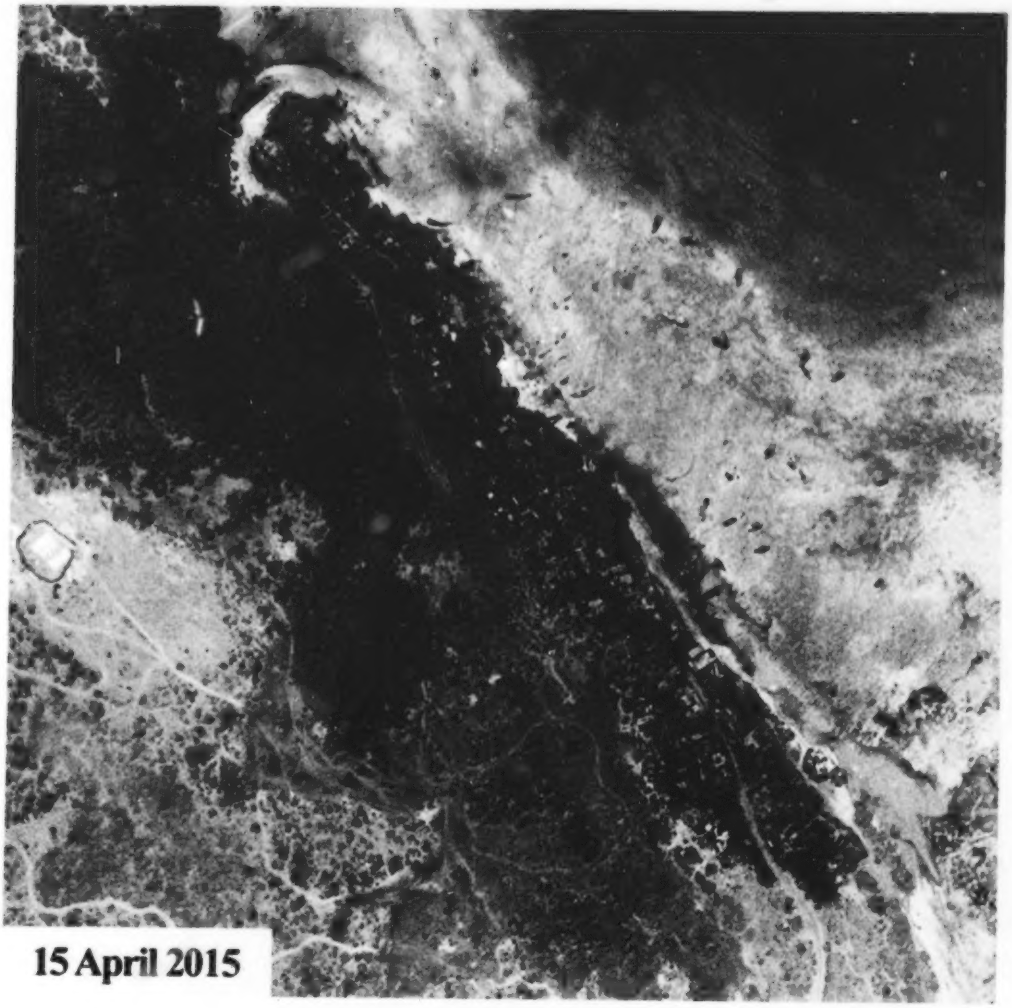
Buur Gaabo Stockpile

3. Satellite imagery shows the rapid expansion of the Buur Gaabo stockpile area and activities between mid 2014 and early 2015. As of September 2015, Buur Gaabo retained significant stockpiles, with a number of cargo vessels still present.

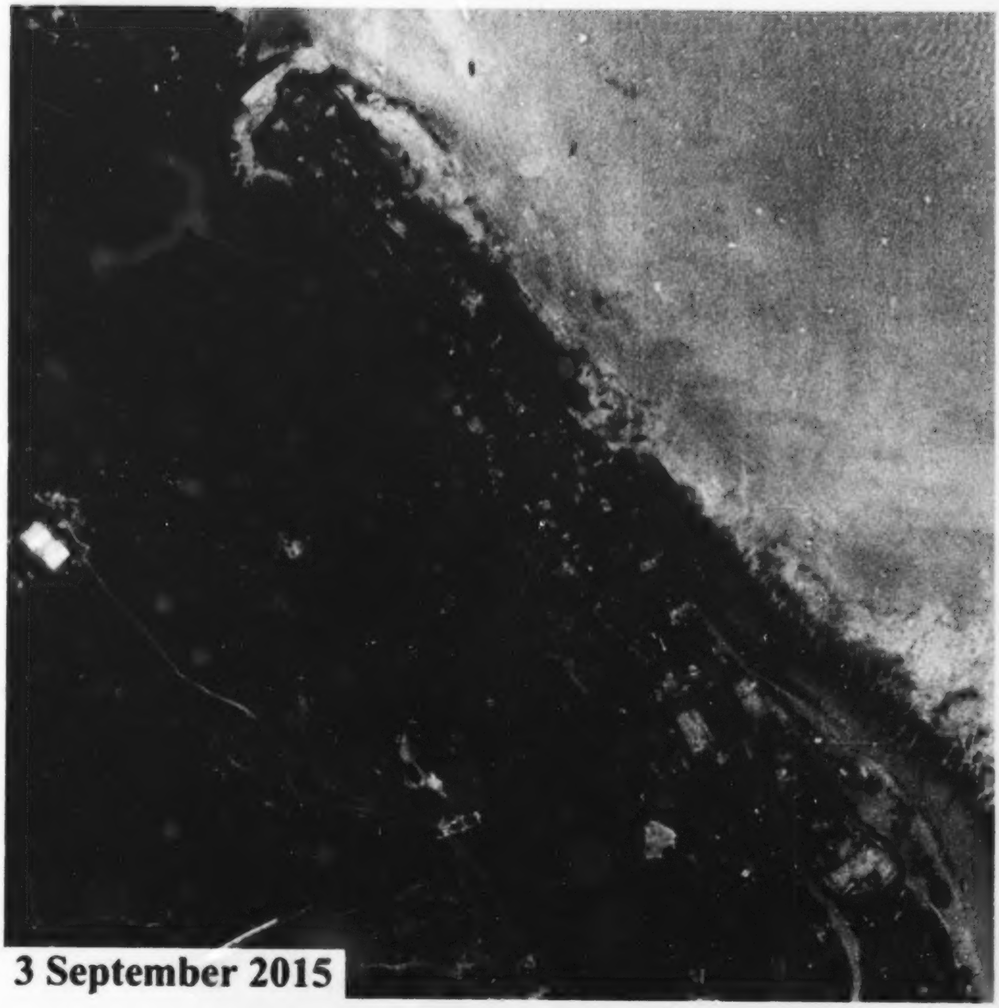
20 March 2011



10 July 2014



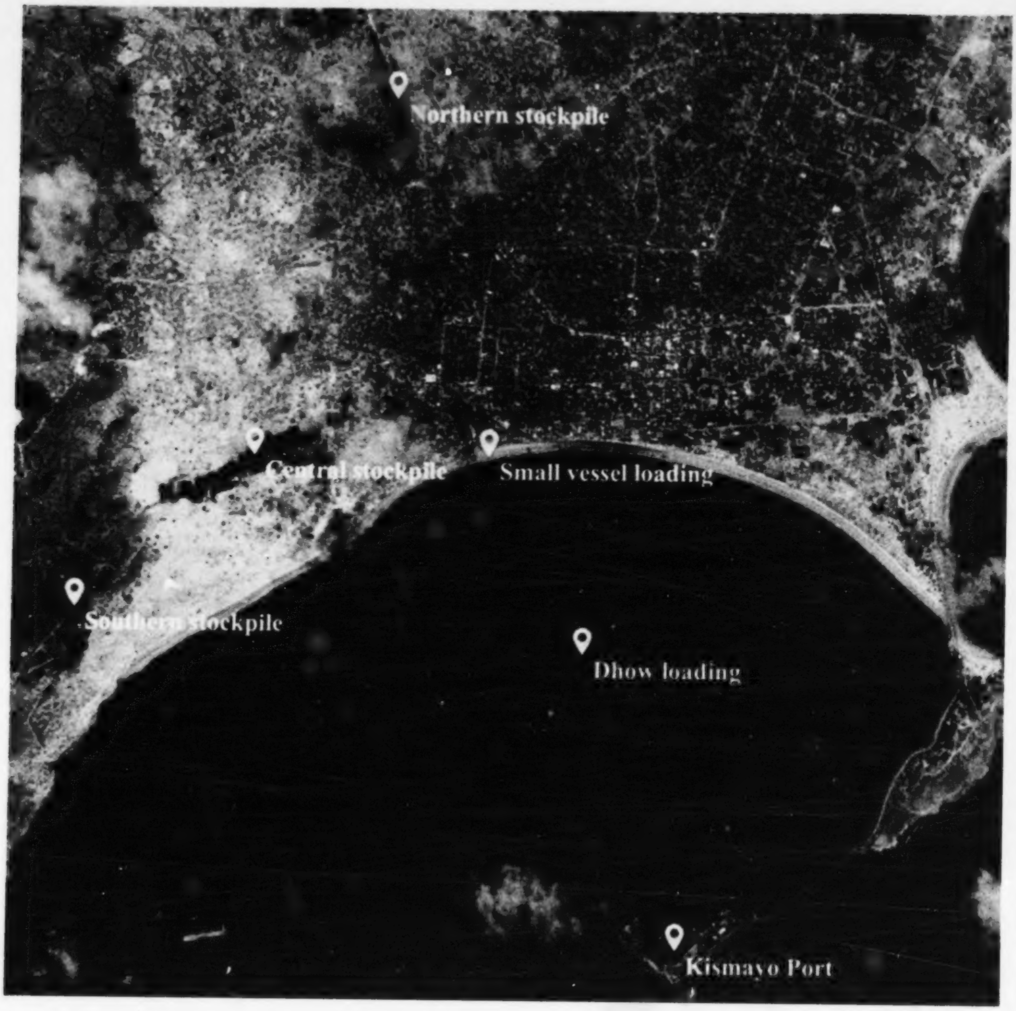
15 April 2015



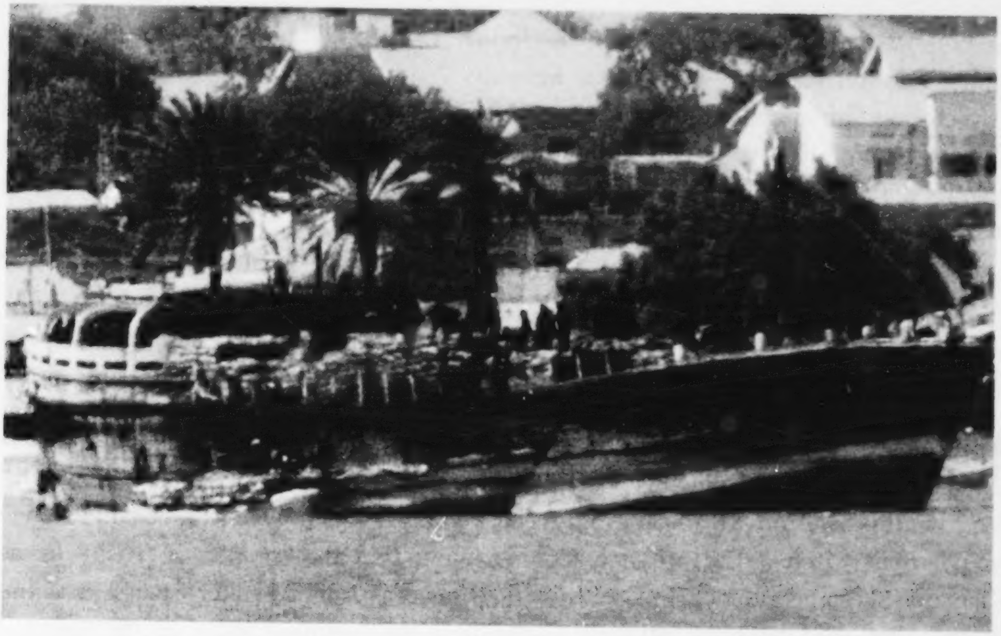
3 September 2015

Annex 8.2: Kismayo charcoal operations

Map of Kismayo charcoal stockpiles and loading areas


Northern stockpile
Central stockpile
Small vessel loading
Southern stockpile
Dhow loading
Kismayo Port

Charcoal being loaded on vessels in Kismayo bay area[4]



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[4] Photograph acquired with support from regional Naval forces.

Annex 8.3: MSV *Raj Milan*

4. The MSV *Raj Milan* (MMSI 419956307), an Indian flagged dhow known to the Group (S/2014/726, annex 9.2) left Kismayo Port in late February 2015 carrying 24,712 bags of Somali charcoal. The Monitoring Group and international maritime forces jointly tracked her movements in real time from 20 March until it reached Port Rashid in the United Arab Emirates in the afternoon of 23 March. Upon arrival at Port Rashid, and with support from UAE authorities, the Monitoring Group was able to interview the captain, Mohamed Sadiq, and inspect the vessel. Despite documentation indicating that the shipper of the cargo was a 'Moon Transport & Services' from the Union of Comoros, the vessel's captain confirmed that it had loaded charcoal at Buur Gaabo, approximately 125 km south-west of the port city of Kismayo.[5] Once loaded at Buur Gaabo, the vessel stopped at Kismayo Port to collect the shipping documentation, including a bill of lading and cargo manifest.

5. Though not disclosed to the Monitoring Group at Port Rashid, evidence later obtained by the Group confirms that the captain also had in his possession original Somali documents, including a Bill of Lading, Cargo Manifest and Port Clearance from Kismayo, all of which were stamped and signed by the Kismayo Harbour Master. The original documentation lists the shipper as Yusuf Jamac Mohamed of Kismayo Shipping Agency Ltd, and the consignee as Cabdi Shakur Sheikh Ibrahim. This consignee was confirmed by UAE officials using the phone number listed in the falsified documentation. Details of the consignee were shared with UAE authorities who committed to conducting their own investigation into this individual, which they agreed to share with the Monitoring Group. At the time of writing findings of the investigation had not been shared with the Group.

6. On 10 June 2015 UAE authorities confirmed to the Monitoring Group that they had seized MSV *Raj Milan* and they had confiscated the shipment for disposal. On the same day, the UAE consulted with the Committee with regard to their consideration of disposing of the seized charcoal through resale at a public auction; on 16 July 2015 the Committee agreed to the proposed course of action

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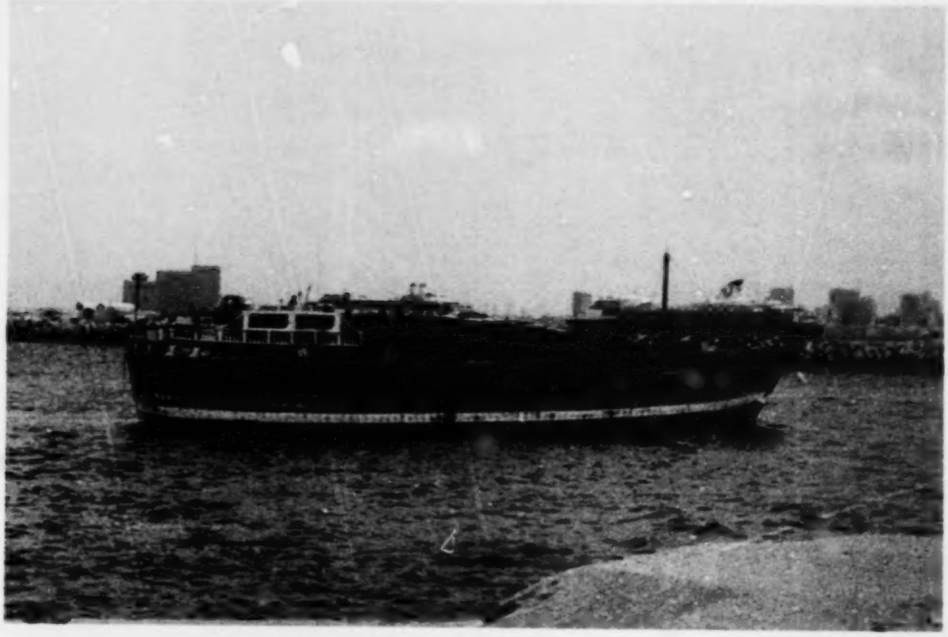
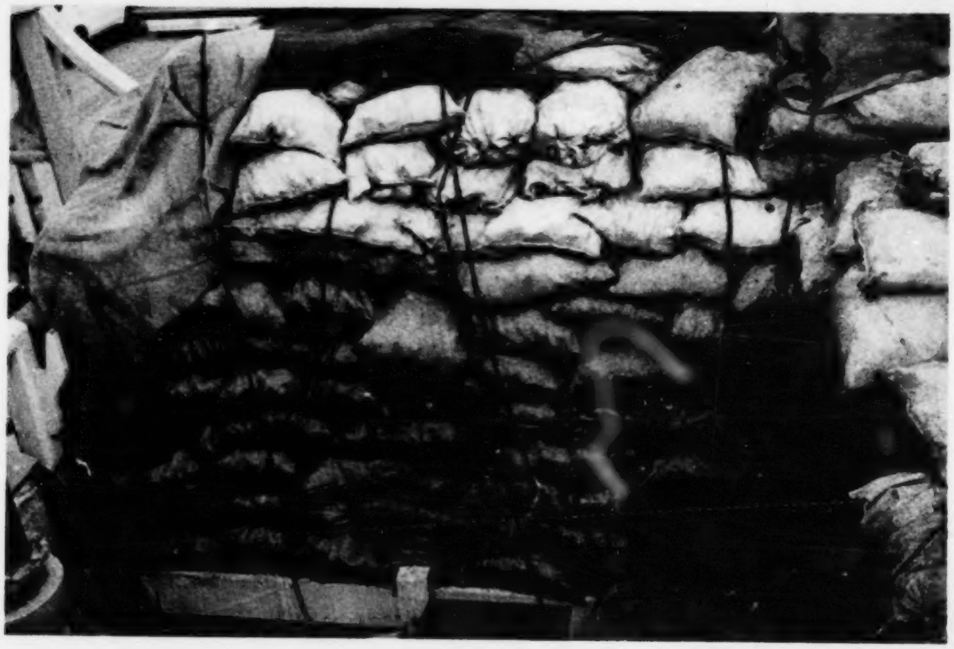
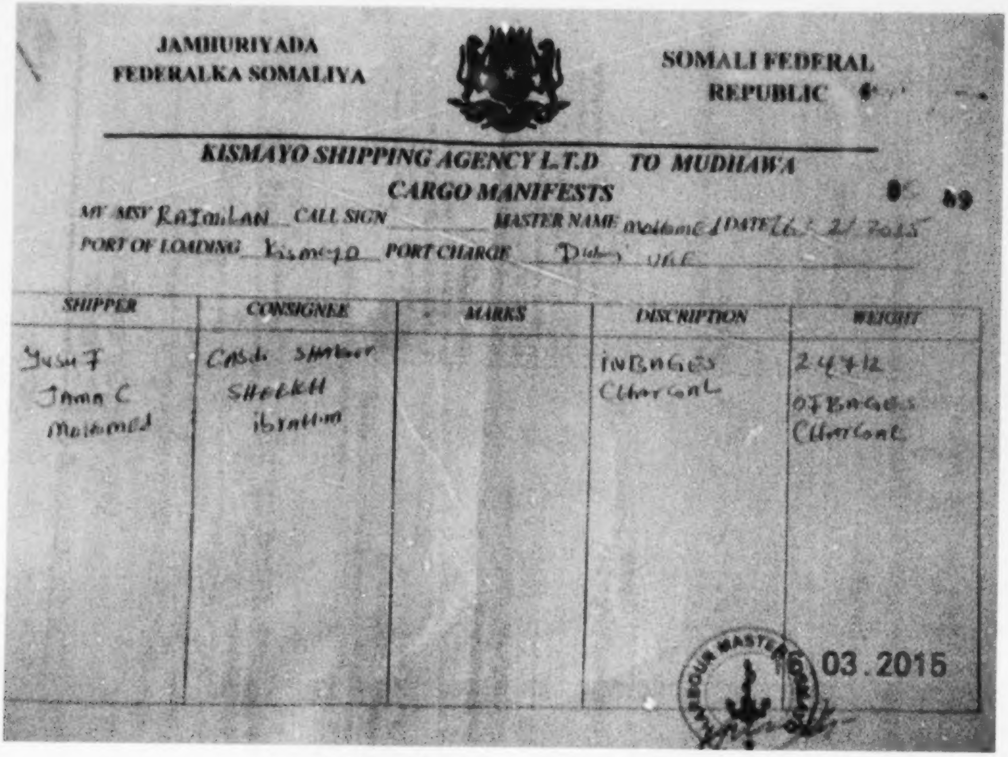
[5] Data collected on the vessel's Automatic Identification System (AIS) transmissions confirmed that it had docked off the coast of southern Somalia before sailing northwards to the United Arab Emirates.

MSV Raj Milan *prior to docking at Port Rashid, United Arab Emirates*





Original cargo manifest



JAMHURIYADA
FEDERALKA SOMALIYA

SOMALI FEDERAL
REPUBLIC

KISMAYO SHIPPING AGENCY L.T.D TO MUDHAWA

CARGO MANIFESTS

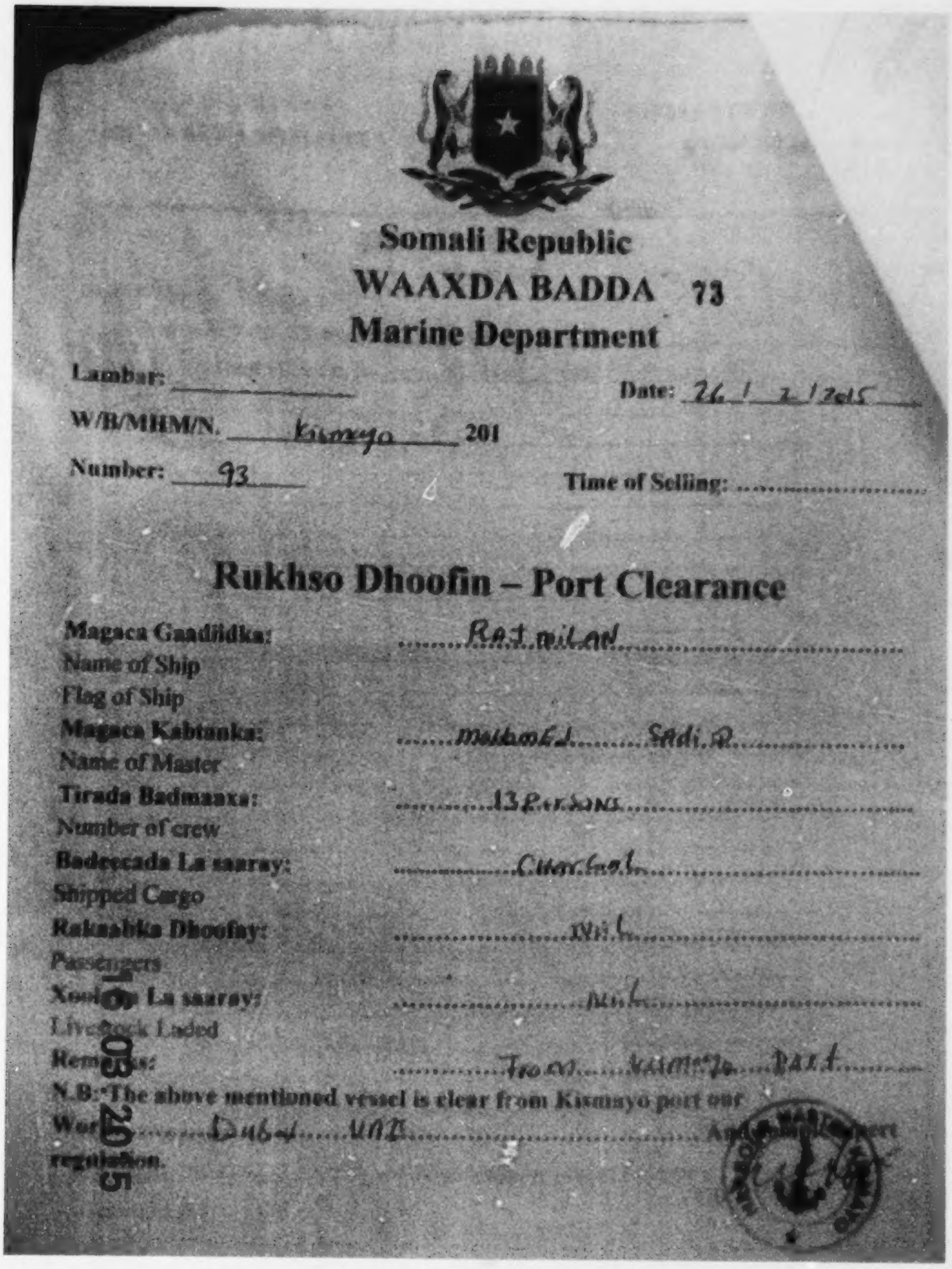
MV MSV RaJamLan CALL SIGN ______ MASTER NAME Mohamed DATE 26/2/2015

PORT OF LOADING Kismayo PORT CHARGE Dubai UAE

SHIPPER	CONSIGNEE	MARKS	DISCRIPTION	WEIGHT
Yusuf Jama C Mohamed	Casdi Shabeer Sheekh ibrahim		INBAGES Charcoal	24712 OF BAGES Charcoal

HARBOUR MASTER 16.03.2015

Original port clearance



Somali Republic

WAAXDA BADDA 73

Marine Department

Lambar: ______________ **Date:** 26 / 2 / 2015

W/B/MHM/N. Kismayo 201

Number: 93 **Time of Selling:** ……………………

Rukhso Dhoofin – Port Clearance

Magaca Gaadiidka: Name of Ship ……Rat milan……

Flag of Ship

Magaca Kabtanka: Name of Master ……mohamed Sadiq……

Tirada Badmaaxa: Number of crew ……13 Persons……

Badeecada La saaray: Shipped Cargo ……Charcoal……

Rakaabka Dhoofay: Passengers ……Nil……

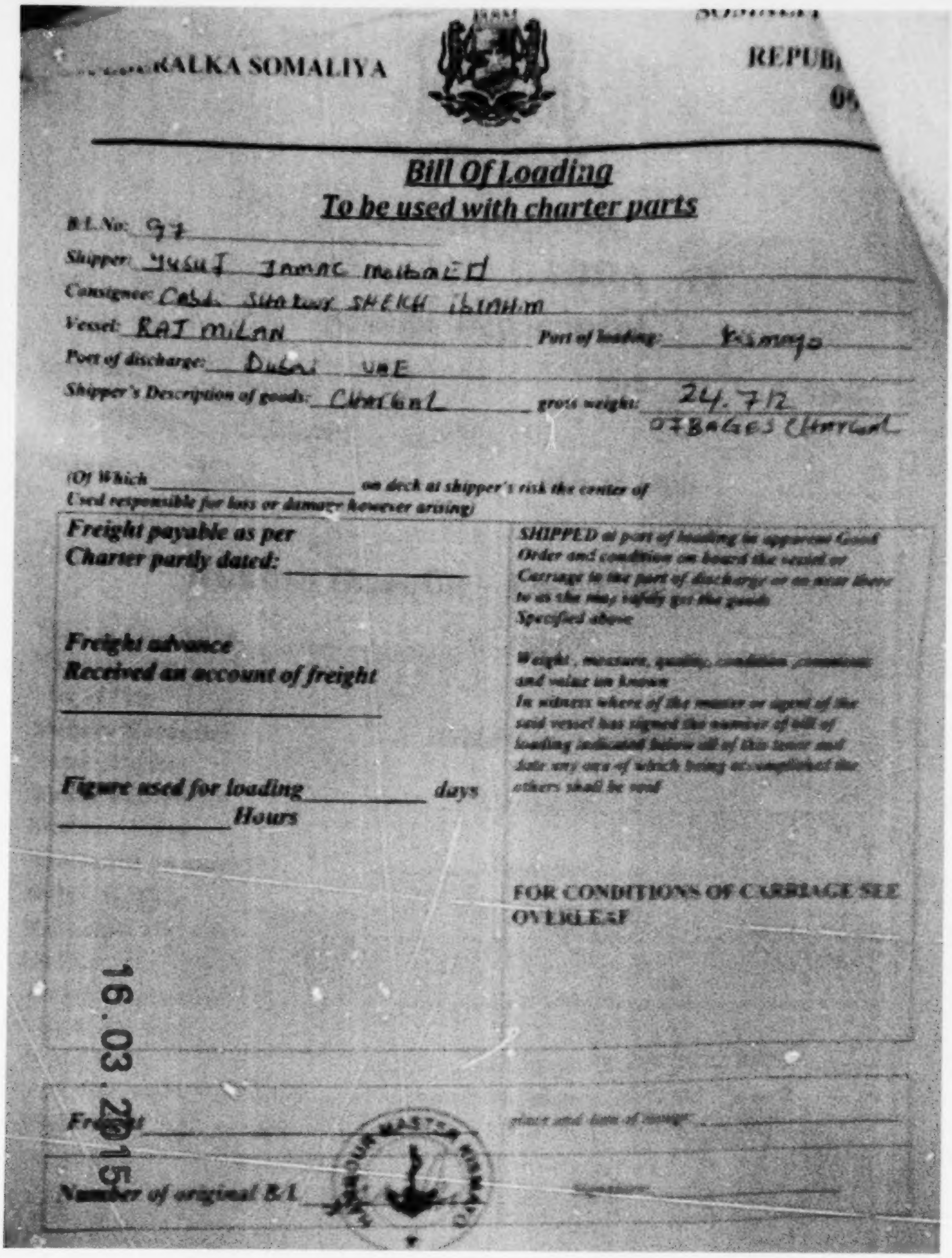
Xoolaha La saaray: Livestock Laded ……Nil……

Remarks: ……From Kismayo Port……

N.B: The above mentioned vessel is clear from Kismayo port our Word ……Dubai UAE…… And [illegible] port regulation.

16 03 2015

Original bill of loading



KALKA SOMALIYA

REPUB

0

Bill Of Loading

To be used with charter parts

B.L.No: 97

Shipper: YuSuf JAmAC moHAmED

Consignee: CAbdi Sultaan SHEKH ibrAHim

Vessel: RAI MiLAN *Port of loading:* Kismayo

Port of discharge: Dubai UAE

Shipper's Description of goods: CharCoal *gross weight:* 24.712
07BAGES Charcoal

(Of Which ______ on deck at shipper's risk the center of Used responsible for loss or damage however arising)

Freight payable as per Charter partly dated: ______

Freight advance
Received an account of freight
______

Figure used for loading ______ ***days***
______ ***Hours***

***SHIPPED** at port of loading in apparent Good Order and condition on board the vessel or Carriage to the port of discharge or as near there to as she may safely get the goods Specified above*

Weight, measure, quality, condition, contents and value un known

In witness where of the master or agent of the said vessel has signed the number of bill of loading indicated below all of this tenor and date any one of which being accomplished the others shall be void

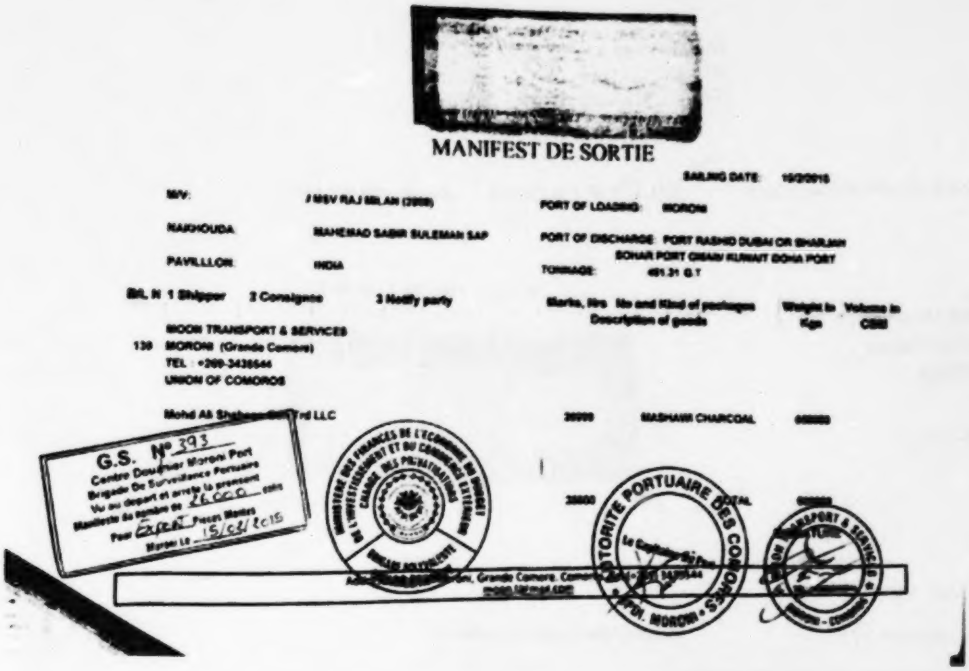
FOR CONDITIONS OF CARRIAGE SEE OVERLEAF

16.03.2015

Freight ______ *place and date of issue* ______

Number of original B/L ______ *Signature* ______

Falsified cargo manifest



[redacted]

MANIFEST DE SORTIE

SAILING DATE: 10/3/2015

M/V: / MSV RAJ MILAN (2008)

PORT OF LOADING: MORONI

NAKHOUDA: MAHEMAD SABIR SULEMAN SAP

PORT OF DISCHARGE: PORT RASHID DUBAI OR SHARJAH SOHAR PORT OMAN KUWAIT DOHA PORT

PAVILLLON: INDIA

TONNAGE: 401.31 G.T

B/L N	1 Shipper 2 Consignee 3 Notify party	Marks, Nrs	No and Kind of packages Description of goods	Weight in Kgs	Volume in CBM
139	MOON TRANSPORT & SERVICES MORONI (Grande Comore) TEL : +269-3438544 UNION OF COMOROS				
	Mohd Ali Shaheen [illegible] Trd LLC	26000	MASHAWI CHARCOAL	[illegible]	
		26000	TOTAL	[illegible]	

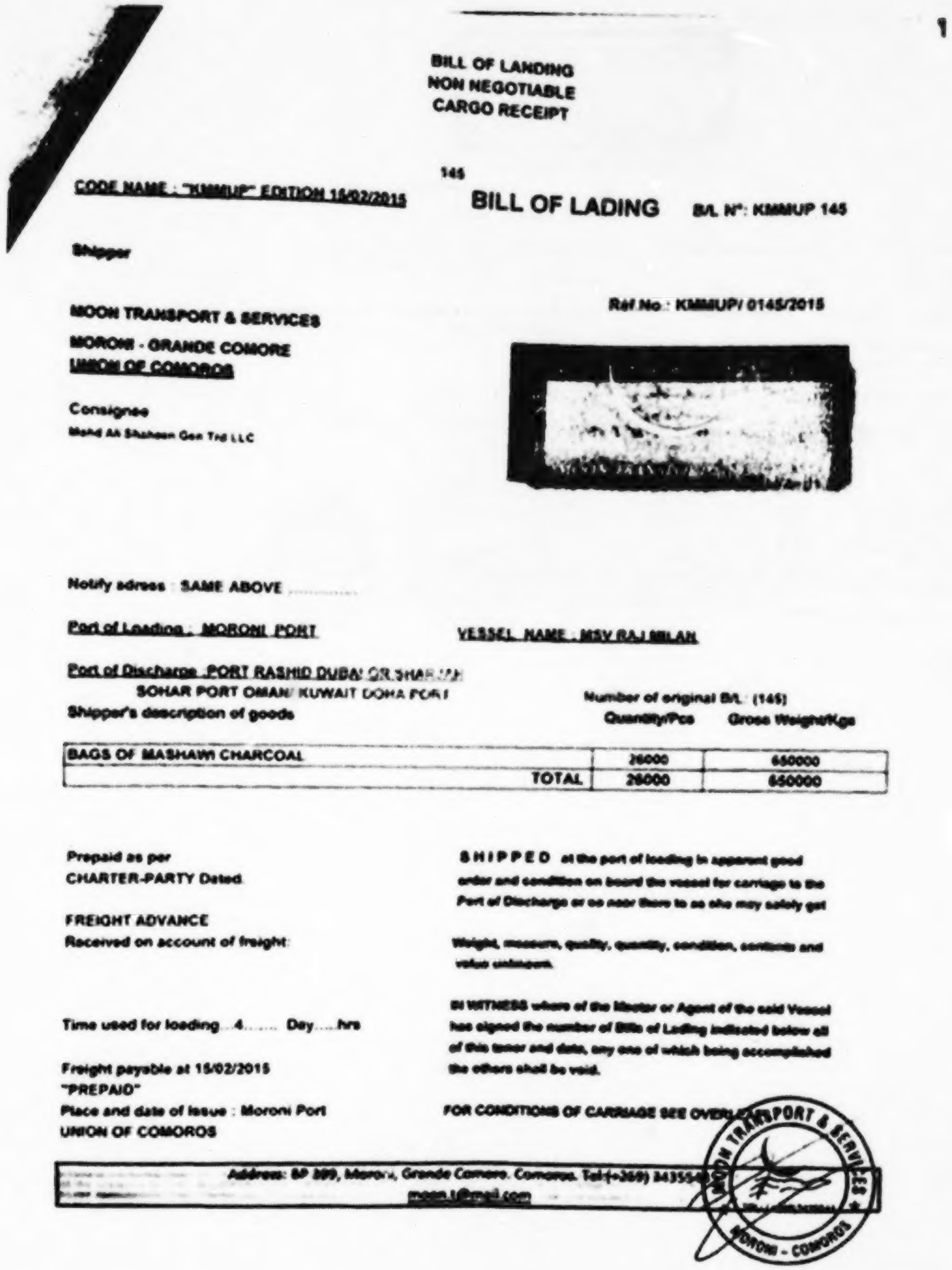
G.S. N° 393
Centre Douanier Moroni Port
Brigade De Surveillance Portuaire
Vu au depart et arrete le present
Manifeste au nombre de 26000 colis
Pour Export Pesos Mentes
Moroni Le 15/03/2015

AUTORITE PORTUAIRE DES COMORES

MOON TRANSPORT & SERVICES

[illegible] Grande Comore, Comoros [illegible] +269 3438544
[illegible]

Falsified bill of lading



1

BILL OF LANDING
NON NEGOTIABLE
CARGO RECEIPT

145

CODE NAME : "KMMUP" EDITION 15/02/2015

BILL OF LADING **B/L N°: KMMUP 145**

Shipper

MOON TRANSPORT & SERVICES
MORONI - GRANDE COMORE
UNION OF COMOROS

Ref.No.: KMMUP/ 0145/2015

Consignee
Mohd Ali Shaheen Gen Trd LLC

Notify adress : SAME ABOVE ....

Port of Loading : MORONI PORT

VESSEL NAME : MSV RAJ MILAN

Port of Discharge PORT RASHID DUBAI OR SHARJAH
SOHAR PORT OMAN/ KUWAIT DOHA PORT

Number of original B/L : (145)

Shipper's description of goods	Quantity/Pcs	Gross Weight/Kgs
BAGS OF MASHAWI CHARCOAL	26000	650000
TOTAL	26000	650000

Prepaid as per
CHARTER-PARTY Dated

FREIGHT ADVANCE
Received on account of freight:

Time used for loading...4....... Day.....hrs

Freight payable at 15/02/2015
"PREPAID"
Place and date of issue : Moroni Port
UNION OF COMOROS

SHIPPED at the port of loading in apparent good order and condition on board the vessel for carriage to the Port of Discharge or so near there to as she may safely get

Weight, measure, quality, quantity, condition, contents and value unknown.

IN WITNESS where of the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OF CARRIAGE SEE OVER

Address: BP 399, Moroni, Grande Comore. Comoros. Tel:(+269) 343554
moon.t@gmail.com